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THE

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BY

GILBERT ABBOTT A BECKETT.

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BY

GILBERT ABBOTT À BECKETT.

Part I.—Of the Rights of Persons.

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CAREY AND HART.
1844.

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COMMISSIONERS OF THE COURTS OF REQUEST,

WHO HAVE

SO OFTEN EXTRACTED MERRIMENT FROM A DRY SUBJECT

BY RENDERING

LAW A BURLESQUE AND JUSTICE A FARCE,

THIS FIRST PART

OF

The Comic Blackstone

IS,

WITH ALL DUE RESPECT, INSCRIBED BY THEIR OBEDIENT SERVANT,

GILBERT ABBOTT À BECKETT.

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THE COMIC BLACKSTONE.

INTRODUCTION.

Section I.—On the Study of the Law.

Every gentleman ought to know a little of law, says Coke, and perhaps, say we, the less the better. Servius Sulpicius, a patrician, called on Mutius Scævola, the Roman Pollock (not one of the firm of Castor and Pollux), for a legal opinion, when Mutius Scævola thoroughly flabbergasted Servius Sulpicius with a flood of technicalities, which the latter could not understand. Upon this Mutius Scævola bullied his client for his ignorance; when Sulpicius, in a fit of pique, went home and studied the law with such effect, that he wrote one-hundred-and-fourscore volumes of law books before he died; which task was, for what we know, the death of him. We should be sorry, on the strength of this little anecdote, to recommend our nobility to go home and write law books; but we advise them to peruse the Comic Blackstone, which would have done Servius Sulpicius a great deal of good to have studied.

The clergy and the Druidical priests were in former times great lawyers; and the word *clericus* has been corrupted into clerk, so that the seedy gentlemen who carry the wigs and gowns down to court for the barristers are descended from the Druids.

A contest sprung up between the nobles and clergy, the former supporting the common law, and the other the civil. Somebody having picked up a copy of the pandects of Justinian at a book-stall in Amalfi, introduced them into England, but King Stephen would not allow them to be studied. Roger Vacarius, however, set up an evening academy for adults, where he advertised to teach the pandects on moderate terms; but the laity would not come to his school at

any price. One thing that contributed to save the common law from falling into disuse, was the fixing of the Court of Common Pleas, which had formerly been movable, following the person of the king, like Algar's booth or Richardson's show, with all the paraphernalia of a court of justice. It is probable that the Common Pleas had a van to carry the barristers' bench, the judge's easy chair, and the rostrum for the witnesses, from place to place; but when it became fixed, it made it worth the while of respectable people to study the law, which was not the case when the legal profession was nothing but a strolling company.

To those who take up the study of the law for the mere fun of the thing, we say with Sir John Fortescue, "It will not," &c. &c., down to "other improvements."

Section II.—Of the Nature of Laws in General.

The term Law, in its general sense, signifies a rule of human action, whether animate or inanimate, rational or irrational; and perhaps there is nothing more inhuman or irrational than an action at law. We talk of the law of motion, as when one man springs towards another and knocks him down; or the law of gravitation, in obedience to which the person struck falls to the earth.

If we descend from animal to vegetable life, we shall find the latter acting in conformity with laws of its own. The ordinary cabbage, from its first entering an appearance on the bed to its being finally taken in execution and thrust into the pot for boiling, is governed by the common law of nature.

Man, as we are all aware, is a creature endowed with reason and free will; but when he goes to law as plaintiff, his reason seems to have deserted him; while, if he stands in the position of defendant, it is generally against his free will; and thus, that "noblest of animals," man, is in a very ignoble predicament.

Justinian has reduced the principles of law to three;—1st, that we should live honestly; 2dly, that we should hurt nobody; and 3dly, that we should give every one his

due. These principles have, however, been for some time obsolete in ordinary legal practice. It used to be considered that justice and human felicity were intimately connected, but the partnership seems to have been long ago dissolved; though we cannot say at what particular period. That man should pursue his own true and substantial happiness, is said to be the foundation of ethics, or natural law; but if any one plunges into artificial law, with the view of "pursuing his own true and substantial happiness," he will find himself greatly mistaken.

It is said that no human laws are of any validity if they are contrary to the law of nature; but we do not mean to deny the validity of the poor-law, and some others we could mention. The law of nature contributes to the general happiness of men; but it is in the nature of law to contribute only to the happiness of the attorney.

Natural law is much easier of comprehension than human law; for every man has within his own breast a *forum conscientiæ*, or court of conscience, telling him what is right and what is wrong. The judgments of that court of conscience are infallible, and its decrees are never silent; for it is without an usher (which, in this case, means a husher) to preserve silence.

The law of nations is a peculiar kind of law, and it is generally settled by recourse to powder and shot, so that the law of nations is, in the long run, much the same thing as the cannon law.

But we now come to the municipal or civil law, which is the subject of the present chapter, though we have not yet said a word regarding it. Municipal law is defined to be "a rule of civil conduct, prescribed by the supreme power in a state, commanding what is right, and prohibiting what is wrong." Such was the definition of Puffendorf, whose name is probably a corruption of *Puffing off*, for he puffs off the law most outrageously whenever he can find an opportunity of doing so.

It is called a "rule" to distinguish it from an agreement, for a rule must be complied with "willy nilly," according to Bacon, or "will ye nill ye," according to Coke.

It is a rule of "*civil conduct*," because the municipal

law insists on civil conduct, particularly from omnibus cads and cabmen.

It is "*prescribed*," because one is bound to take it, and a very disagreeable pill it sometimes is to swallow. It is one of the beautiful provisions of the English law, that not knowing it forms no excuse for not obeying it. It is an ingenious fiction of British policy that every person in the kingdom purchases every act of Parliament, and carefully reads it through; therefore, there can be no possible excuse for being ignorant of the laws that are made every session.

It is reported of Caligula that he caused the laws of Rome to be written in small characters, and stuck up so high that the citizens could not read them; though, perhaps, the higher classes, who, it is presumed, could afford to purchase opera-glasses, were enabled to make themselves acquainted with the edicts.

Municipal law is a rule prescribed by the "*supreme power in the state*," and this brings us to the question of the origin of government. Some writers think that society, in its original state, chose the tallest man amongst them as king. If this had been the case, Carus Wilson might have disputed the English throne with Mr. Charles Freeman, the American giant. Perhaps the expression in the national anthem, "*Long* to reign over us," has given rise to this very extraordinary theory.

There are three forms of government—a democracy, where the mass takes such liberties in the lump, that there is no liberty left for allotment among private individuals; an aristocracy, which we need not particularly describe; or a monarchy, where one individual is absolute within a certain space, like the square-keeper of a square, who is fortunately the only specimen of pure despotism that this free country possesses.

Cicero thought a mixture of these three the best; but Tacitus, who had better have been on this occasion tacitus indeed, and held his tongue, declared the idea to be a visionary whim; for he seems to have imagined that the oil of aristocracy and the vinegar of democracy never could have coalesced. Tacitus, however, was out; and, fortunately for us, the British constitution presents the mixture in its com-

plete form, and we trust will long continue what it is—"a real blessing to mothers," fathers, daughters, sons, and wives of Great Britain.

The House of Commons embodies the principle of goodness and purity, as a reference to the various election compromises and bribery cases will manifest. The House of Lords embraces the grand element of wisdom, as the reported speeches of various sagacious noblemen will at once prove; while the monarchy is the type of strength, the stability of the throne being provided for by her Majesty's upholsterers. Here, then, in the British constitution is concentrated the milk of every thing that is good, wise, and powerful. Woe to the revolutionary hand that shall attempt to skim it!

We now come to analyze a law. In the first place, it is declaratory; in the second, it is directory; in the third, it is remedial; and in the fourth, it is vindicatory. The declaratory says so and so is wrong, and the directory immediately says it shall not be done; but it sometimes contrives to say so in such very civil and mysterious terms as to leave people in doubt whether they may do a thing or may not, until they find all of a sudden they are put in possession of its true meaning, and punished for not having been able to understand it.

It is *remedial*, for it gives a remedy. Thus, if you are deprived of your right, you have the remedy of a lawsuit, which is a great luxury, no doubt, though rather an expensive one.

It is also *vindicatory*, for it attaches a penalty—and such is the majesty of law, that, whether right or wrong, he is sure to have to bear a portion of the penalty who presumes in any way to meddle with it.

Offences are either *mala in se* or *mala prohibita*; but the *mala prohibita* differ very materially from the *mala in se*, of which many instances could be given. Piracy is decidedly a *malum in se*(a), but a *malum prohibitum* is that which is only made criminal by the law. For example, it was attempted to make baking on Sunday a *malum prohibitum*, so that a good dinner would in fact have been a *bonum prohibitum* if the anti-baking-on-Sunday party had succeeded.

The rules for interpreting English Law are extremely arbitrary. Words are to be taken in their popular sense without regard to grammar, which is thought to have been always beneath the wisdom of Parliament. Grotius thought that the penalty on crime was a sort of tax on sin, which might be defined without regard to Sin-tax. Puffendorf tells us, that the law forbidding a layman to lay hands on a priest (observe the pun, "a *lay*man to *lay* hands") applied also to those who would hurt a priest with a weapon, or in other words, "lay into him."

If words are still dubious after the lawyers are called in, (and they have a knack of making matters more dubious than before), it is usual to refer to the context; but this is, in many cases, only to get out of the fryingpan into the fire.

Next, as to the subject-matter. The words are always supposed (though it requires a tolerable latitude in the way of supposition) to have reference to the subject-matter. Thus, a law of Edward III. forbids all ecclesiastical persons to purchase *provisions* at Rome, which would seem to interdict clergymen from buying any thing to eat within the holy city. It seems, however, that this only has reference to the purchase of "bulls" from the Pope; though it is not unlawful to procure portions of "bulls," such as rumpsteaks or sirloins of beef, from the papal butchers.

Next, as to the effect and consequence of words, if literally understood. "It has been held," says Puffendorf, "after a long debate," that when the words amount to utter nonsense, they are not to be, in all cases, strictly followed. Thus the Bolognian law, enacting that punishment should be inflicted on any one who drew blood in the streets, was at last held (after several medical men had been put to death) not to extend to surgeons who should bleed a man taken in the streets with a fainting fit. But, lastly, the reason and spirit of the law must be looked at (when there happens to be any.) The following case, put by Cicero, is so nice, that we throw it into metre:—

A law there was, that in a water-trip
Those who should in a storm forsake a ship
All property should in the vessel lose.

It happen'd in a tempest all on board,
Excepting one, who was by sickness floor'd,
To leave the ship their utmost power did use.
The invalid, who could not get away,
Was with the wreck of course compelled to stay,
And with it he was into harbour wash'd.
The benefit of law he then did claim,
But when to sift the point the lawyers came,
His claim with great propriety was quash'd.

The difficulty of saying what is the meaning of law led to the establishment of a perfectly distinct branch of jurisprudence, called equity. According to Grotius, equity "*non exacte definit, sed arbitrio boni viri permittet.*" Among other *boni viri*, to whose *arbitrium* equity has left matters, was the late Lord Eldon, who was so exceedingly modest as to his judgments that he postponed them as long as he could, and even when he gave them, such was his delicacy that it was often quite impossible to understand and abide by them. It has, however, been said, that law without equity is better than equity without law; and, therefore, though in law there is very often no equity, nevertheless there is no equity that has not sufficient law to make its name of equity a pleasant fiction.

Section III.—Of the Laws of England.

The Civil Law may be divided into the *lex non scripta*, the unwritten or common law, which was not originally in black and white; and the *lex scripta*, the written or statute law, which was originally in black and white; "though," says Coke, "y^e^ blacke in all our lawes did alwayse preponderate."

By the unwritten law, we do not mean that any laws have been communicated by word of mouth from one generation to the other, for this would be reducing the common law to mere talk. The western world being totally ignorant of letters—by which it is to be understood that the alphabet was at that time wholly unknown at the west end—our ancestors trusted to tradition, and thus the laws became more familiar to them than A B C; and the earlier lawyers

trusted to their recollection, which, no doubt, gave rise to the maxim, that liars—of which lawyers is an evident corruption—should have long memories. The Druids were certainly no disciples of Mr. Carstairs, the celebrated writing-master, of whom Lord Byron is reported to have said, "I should have been a better writer had I been guided by that man," and they probably despised penmanship, chiefly on account of their being wholly without pens; but Aulus Gellius has left this subject in the darkness that so naturally belongs to it.

Fortescue thinks our common law is as old as the primitive Britons; and we are ourselves inclined to refer to the times of pure barbarism for the origin of our legal system.

Mr. Selden fancies we got a bit of it from the Romans, and that we picked some from the Picts; so that, according to Selden, the English Law is a delicious jumble, and of this its confused state appears to give ample evidence. Bacon says, our laws, being mixed like our language, are so much the richer; but Bacon always cuts it uncommonly fat when he gets on the subject of legal richness.

Antiquarians tell us that Alfred the Great compiled all the laws into one volume, which he called a dome or doom-book; and, considering what people are doomed to by the law, Alfred could not have hit upon a happier title for his production. This book was lost in the reign of Edward the Fourth, or probably sold for waste-paper, which accounts for its having been looked upon as most decidedly "the cheese" from that day to the present.

In the beginning of the eleventh century, there were three different sorts of laws, the Mercian, the West Saxon, and the Danish; out of which we are told, by Ranulphus Cestrensis, (who was, we suppose, "a gentleman, one *et cetera*,") that Edward the Confessor formed a digest of laws, which shows that the Confessor's digestion must have been first-rate; and, perhaps, living as he did near the sea-shore, he was enabled to profit by the anti-bilious properties of cockles: *Piluli antibiliosi Cockleiani.* Some say that Edward the Confessor's book was a mere crib from Alfred's, and Alfred has been called the *conditor* or builder of our law, while Edward the Confessor has been nicknamed the *restitutor* or restorer. Being a confessor, we

wonder that he did not confess this fraud, if he had really been guilty of it; but perhaps, on the *lucus a non lucendo* principle, Edward was called a confessor from his never confessing anything. Whoever may be entitled to the authorship, these laws constitute the *jus commune*, or *folk right*, as Edward the Elder rather facetiously phrases it.

The goodness of a custom entirely depends on nobody being able to say how it came to be a custom at all; and the more unaccountable it is in its origin, the better it is for legal purposes. If this fine old principle were to be applied to the ordinary business of every-day life, he would be the best customer of whom the tradesman should say—"I can't think how I ever came to trust or deal with him."

The unwritten law has three kinds of customs. General customs, which apply to the whole country, such as the custom of going to bed at night, and getting up in the morning. Particular customs, applying to particular places, such as the custom of intimidating the boys at the Burlington Arcade, by the presence of a man armed with a brazen-headed tomahawk; and certain particular laws that have obtained the force of custom in some particular courts,—such as the custom at the Court of Kingsgate-street, of making an order on the defendant, and asking him how he will pay, without hearing much of the evidence.

The judges decide what is a custom and what is not. They, in fact, make the law by saying what it means; which, as it scarcely ever means what it says, opens the door to much variety. "Variety is charming," according to the proverb; and the study of the law must, on this authority, be regarded as one of the most fascinating of occupations. "Law is the perfection of reason," say the lawyers; and so it is when you get it; but if a judge makes a decision that is manifestly absurd or unjust, it is declared not to be law—for "what is not reason," say the lawyers, "is not law:" a maxim which, if acted upon, would have the effect of condensing the law most materially, or perhaps exterminating it altogether.

The law is preserved in reports, of which there are many thousand volumes; so that any one in ignorance of the law has only to purchase or borrow these—compare the different decisions, and apply them all to his own case, when he

will either be right or have the happiness of correcting the law by a fresh decision telling him that he is wrong: which will, of course, be ample compensation for any little inconvenience he may have experienced.

The best of the old law treatises is Coke upon Littleton, by which obscurity has been rendered doubly obscure. Mr. Selden, whose acuteness missed the pun, might have said, that a bushel of Coke superadded to a Little Ton, was enough to put out the fire and extinguish the light; but Mr. Selden has left it to us to make this observation. Coke upon Littleton is, no doubt, something on the model of Butter upon Bacon—the latter being a work that never was seen, though it is often alluded to. The former is said to be a mine of learning; and, like all mining concerns, there is a good deal of mystery with not a little roguery mixed up in it.

Among particular customs may be instanced the customs of London, one of which is the custom of having a dish of sprats on Lord Mayor's day; and another is the custom of making jokes, which the chief Clerk always indulges in.

The civil law, perhaps, ought now to be noticed. It consists of the Institutes in four books, and the Digests in Fifty, added to which are the Constitutions in twelve books; and the Novels, or new constitutions, which, like many novels of the present day, are not readable.

The Canon Law is made up of rare patchwork, in which various popes had a hand, and their contributions were appropriately enough called *extravagants*. In the reign of Henry the Eighth, it was enacted that there should be a review of the Canon Law, but like some of the reviews appointed to take place in Hyde Park, it was postponed, and nothing has since been done in it.

We need say no more of the Canon law, considering that it is subjected entirely to the common law, and does not in all cases bind the laity—but Spelman thinks that the term, "son of a gun," is incidental to the canon law, for the law was always sovereign, and the sovereign is said to be the father of the people.

We now come to the *lex scripta*, or written law—the oldest specimen of which is that glorious bit of old parchment known as *Magna Charta;* the sight of which sets many a

British heart upon the beat at the Museum, where, on Easter Monday, the palladium of our liberties is an object of overwhelming interest.

Magna Charta is now chiefly useful as a subject for oratorical clap-traps. The scrawl is sadly indicative of the horrible state to which the discontented barons were reduced for want of "six lessons in the caligraphic art." John was made to sign as a *sine quâ non*—but the large spot of ink over the J. will be a blot upon his name as long as Magna Charta is in existence.

Statutes are of different kinds; general or special, public or private. A public act regards the whole community—though there are exceptions—for, if Mr. So and So is advertised to appear as Othello at Covent Garden Theatre, it is a public act, and yet no one seems to care for it.

A special or private act regards only the party concerned; as if there was to be an act to secure the profits of Waterloo Bridge, this would be an act in which no one but those who were paid for drawing it could feel any interest.

The mode of construing a statute gives fine scope for mystification; and it has been said by the learned Barrington, who began his education for the office of a Botany Bay judge as an English pick-pocket, that any one may drive a coach and horses through any act of Parliament.

Penal statutes must be construed literally—thus, if an act inflicts a punishment for stealing a shilling and *other* money; no one could be convicted under that statute for stealing a pound, because *other* money only would be mentioned.

When the common law differs from the statute law, the latter prevails—and a new statute supersedes an old one—which is just turning topside-turvy the principle which governs the common law, where the older the custom happens to be, the better. Widdicomb and Methusaleh are the two best authorities on questions of common law; but this is not germane to the subject.

If a statute that repeals another is itself repealed, the first statute is revived; another provision which is in the nature of law, though not in the law of nature. It is as if we should say that, if one man kills another, and he is afterwards killed, the first man revives—a position which none but a lawyer would insist upon.

Any statute derogating from the power of subsequent Parliaments does not bind, for Parliament acknowledges no superior upon earth—except, perhaps, Mr. Stockdale and his attorney Howard, who certainly showed themselves superior to Parliament by getting the upper hand of it. Cicero, in his letters to Atticus, had what is vulgarly termed a "shy" at the absurdity of "restraining clauses"—and he seems to think that if Parliament were fettered, it would be more like Newgate, for its acts would be little better than Nugatory. Cicero did not make this joke, but he laid the foundation of it; and as it is a maxim in law that *qui facit per alium facit per se*, we may give him the credit of it.

Lastly, an act of Parliament, that is impossible to be performed, is of no value—in which respect the acts that cannot be performed, resemble many of those which can be, and are carried into execution. It is, however, a rule admitting of many exceptions, for if Parliament were restrained from doing unreasonable acts, its proceedings would be necessarily greatly interfered with.

These are the materials of which the laws of England are composed—and they constitute a hash of the most savoury character.

Of equity we have already said something, and any one who is engaged in a chancery suit will appreciate its blessings. Equity detects latent frauds, but there are exceptions to this rule, for equity would not assist the purchaser of a dining-table made of green materials, at a cheap mart for furniture. Nor would the chancellor give his opinion as to whether any latent fraud had been practised. Equity will deliver a person from such dangers as are owing to misfortune or oversight; but if a man has the misfortune to fall into a cellar by an oversight of his own, he may wait a long time before equity will get him out of it.

Equity will give specific relief adapted to the circumstances of the case; but if a man has the toothache, equity has no specific in the way of relief, except, perhaps, extraction—for chancery will take the bread from the mouth, and may, therefore, as well extract the tooth from the jaw, for the latter without the former is superfluous. Such is the glorious nature of our constitution, that equity cannot touch the life, though it may sweep away all the property.

A judge may not construe the law in criminal cases, except according to the letter—and sometimes it amounts to a dead letter.

We cannot conclude this account of the statute law, without observing that all eminent jurists say it ought to be consolidated; but this seems much less easy to do than to talk about. Several commissions have recently been appointed, and various reports have been issued, the last of which is the sixth of the criminal commissioners, who, however, are no less criminal than the others, for they have all made a horribly long job of it. We confess, that, figuratively speaking, the law requires boiling down, but we prefer trying to get at its essence by merely roasting it.

Section IV.—Of the Countries subject to the Laws of England.

Several of our law writers say, with their usual acuteness, "England is not Wales, neither is it Scotland nor Ireland;" and, in fact, Spelman adds that "England is nothing but itself:" though, in our own day, we have seen that England has been any thing but itself, so that the old learning on this head is quite out of date at present.

Wales continued a long time independent of England; and Cæsar, who seized on almost every thing, did not so soon seize upon that. The people lived, says Tacitus, in a pastoral state, having probably no other food but Welsh rabbits, until Edward the First introduced his heir to them as their prince; and the people, having shown the white feather, it is supposed that it was immediately taken from them and placed in the prince's hat—"where," says Fortescue, "it has continued ever since, as a badge of honour on one side, and servitude on the other." The finishing stroke to Welsh independence was given by the statute 27th Henry VIII., chapter 26, which may be said to have played Old Harry with their liberties. But while it gave Wales a frightful blow with one hand, it offered civil liberty with the other; and Mr. Selden is of opinion that the expression a "topper for luck" originated with the circum-

stance alluded to. The only remnant of independence left to Wales has been taken away by the 1st of William IV., which puts an end to its independent law courts, which were, indeed, independent, not of law alone, but of justice. In those courts, law, instead of being paid for, as in England, through the attorneys, used to be purchased directly of the judge, who, instead of giving consideration to the facts, used to take a consideration from the parties, and decide accordingly.

Scotland was an independent kingdom until the time of Anne, when the Union was carried out, and Scotland was declared to be a part of England; but as nobody knew whether Berwick-upon-Tweed belonged to one country or the other, it is subject to neither or both. "And this," says Coke, "was making a regular Scotch mull of the business."

Ireland was, until lately, a distinct kingdom; but since it has ceased to be distinct, it has been a good deal confused, which is so far natural. Henry VIII. assumed the title of king, and afterwards recognized the title by the 35th of himself,* chapter 3, which is as though a pickpocket should steal a handkerchief and then pass a resolution in his own mind recognizing his right to the stolen article.

At the time of the Conquest, the Irish were governed by the Brehon law; but John, going over with a lot of legal sages, stuffed the Irish people with the said sage, which did not at all agree with their constitution. At length Edward the Third hit upon the old trick of abolishing the Brehon law, by saying that it never was law at all; and hence the expression, "Well I never! did you ever?"—an exclamation that Edward very probably used when pretending his utter ignorance that such a thing as the Brehon law had ever existed.

Laws passed in England do not bind Ireland, unless Ireland is named; and when Ireland is named, it often seems to think itself only bound—to grumble. The union between Ireland and England was at length effected in 1800; and, like man and wife, the two countries would go on very well together, but for the interference of certain pretended friends,

* 35 Henry VIII.

who take pleasure in sowing dissension between them. Hibernia is at the present moment being urged to sue for a divorce, but the Agitator who has been working her up to ask for it has lately received a tweak of the nose,* which we are sorry Coke and other sages are not in existence to dilate upon.

Among the islands subjected to England is the isle of Thanet, whose inhabitants devote themselves to the simple arts of peace, manufacturing Margate slippers, and polishing the shells of cockles, which they offer for sale to the strangers who visit their shores. The lesser islands of Dogs, and the Eel-pies, are also subjected to the laws of England; but at the latter there is a sort of Lord Lieutenant, who keeps a tavern, and exercises a species of absolute monarchy, exacting tribute from the visitor, but extending hospitality in return for it. The thread of English law is carried through the well-known Needles to the Isle of Wight, and the ancient Isle of Isleworth, though locally subjected to three policemen, is bound by all the acts of the British Parliament.

The Isle of Man is a distinct territory, not subject to our laws; and, indeed, if it were under the Queen, says Plowden, in his *Coruscationes Comicæ*, it would not be the Isle of Man, but the Isle of Woman. This Isle of Man continued for eight generations in the family of the Earls of Derby, until, in 1594, several daughters having been left by the deceased earl, the young ladies got up such a quarrel about the isle with the tempting name of Man, that the queen settled the matter by seizing the island for her own use, and put a man in possession. At length the island became the property of the Athol family, but the title of king had long been disused, as well it might, for his manly majesty was a most absurd epithet to apply to any one. The contemptible little sovereignty was eventually purchased by George the First; and the expression "I'm the man for your money," probably originated from the circumstance alluded to.

There are several other islands, including Jersey, Guernsey, Alderney, (famous for its cows,) and Sark, remarkable

* The tweak alluded to in the text was the verdict of the jury on the man's trial.

posed of ten families; but "after the Revolution," says Bracton, "every thing went to sixes and sevens, so that the tens and hundreds were lost sight of." Hundreds were, in some places, called wapentakes, probably from the inhabitants being accustomed to give and take a whapping.

The ancient distribution of hundreds being no longer applied to the land itself, has since been transferred to its produce; and hence we hear of a hundred of coals—a hundred of asparagus, and a hundred of walnuts.

Counties or shires are of ancient origin, and were governed by an earl or alderman; for, in very early times, all aldermen were earls, which does not say much for the early aristocracy.

A county is also called a shire, and hence we have the word sheriff; whose proper duty it is to see to the execution of the law within the county, and also the execution of the criminals. If the old Saxon customs were now in force, Mr. Sheriff Moon would have to hang at the Old Bailey, not *in propriâ personâ*, but it would be his duty to hang capital offenders if there chanced to be any.

There are three counties palatine—namely, Chester, Durham, and Lancaster, which formerly had royal privileges. These have lost their fixity of tenure, for they have all been taken away; though at Lancaster the militia—consisting of an adjutant and four sergeants—is still allowed to exercise a sort of limited despotism.

We had almost forgotten to mention that the Isle of Ely, though not a county palatine, is a royal franchise, where the bishop has it all his own way; thus realizing the beautiful little allegory of the Bull in the China-shop.

So much for the countries subject to the laws of England.

CHAPTER I.

ON THE ABSOLUTE RIGHTS OF INDIVIDUALS.

MUNICIPAL law is a rule of civil conduct, and it is evident, therefore, that the omnibus cads pay very little regard to it. Its primary objects are rights and wrongs; but it

seems to have a greater regard for wrongs than for rights—often giving right to the wrong, and sometimes wronging the right in the most palpable manner.

Blackstone divides rights into the rights of persons and the rights of things; but the division is not approved, for it has been held that there are no rights of things—but surely boots are things, and there is always a right boot, though the jurists insist that it is only the owner who has a personal right in it.

Rights are such as are due *from* a man and such as belong *to* him; but some things that belong *to* one man are due *to* another, in which case it is hard to get at the right of it.

Persons are either natural or artificial; but the law does not regard a man as necessarily artificial because, like an actor, he pads his calves; but a corporation is an artificial person—and here it would seem that stuffing has really something to do with the distinction.

Absolute rights are such as belong to man in a state of nature, though absolute rights are often exercised by eastern despots when in a state of ill-nature.

Human laws are principally intended to protect absolute rights; but the laws often meddle with what seems absolutely right till there is nothing absolutely left of the original right, and absolute wrong is the consequence.

Natural liberty is the right inherent in all men at their birth; but this natural liberty is soon at an end, for restraint begins in the cradle. Each member of society gives up a portion of his own individual liberty, in consideration of receiving the advantages of mutual commerce, says Coke, in his Institutes; but he does not go on to tell us the commercial advantages enjoyed by a newly-born baby.

This sort of modified power of action is called civil liberty, and any thing interfering with that is considered to be taking a liberty of a most uncivil kind with the freedom of the subject. Thus, the statute of Edward the Fourth, prohibiting any but lords from wearing pikes on their shoes of more than two inches long, was considered to savour of oppression; but those who were in the habit of receiving from a lord more kicks than halfpence, would consider that the law in question savoured of benevolence.

Mr. Locke has well observed, that where there is no law there is no freedom; but Mr. Levy, the sheriff's officer—who understands the force of lock—has observed, tolerably well, that where there is a great deal of law there is often an infringement on liberty.

"Political liberty flourishes in its highest vigour," says Salkeld, "in these realms;" but Salkeld flourishes more about political liberty than political liberty flourishes about us; though, we confess, England has her share of it.

Every slave, who sets his foot on British ground, is said to be free, which gave rise to a bubble company for taking out earth to the Havannah in flower-pots from an English nursery-garden, for the slaves to stand upon and assert their freedom. Unfortunately, the speculators, and not the slaves, contrived to put their foot in it. Slavery is, however, now abolished by act of Parliament; but it extends to blacks, and not to the white population, thus giving an opportunity to Coke—had he been alive to make the pun—that the boon has been bestowed with a *niggar*-dly hand by the legislature.

The history of the rise of our constitution is curious. It began with the great Charter, which the barons wrested from John; but for the particulars of the wrestling match we refer to the sporting papers of the period. Henry the Third corroborated this statute, and other monarchs touched it up; which, considering the fuss that has been made about it, savours of the process of painting the lily, a proceeding that Shakspeare is justly indignant at.

Charles the First edited a supplement, called the Petition of Right, and Charles the Second passed the *Habeas Corpus* act, by which, among other blessings, a debtor could change his quarters to the Queen's Prison from Whitecross-street. Then came the Bill of Rights, drawn by the people, and accepted by William and Mary; which was followed by the Act of Settlement, relating to the crown, which, it would appear from this, the sovereigns had previously had on tick, and it was therefore not settled for. The Reform Act, which followed, may be called the act of unsettlement, on account of the changes that have ever since been called for.

The rights of the person may be again divided into

three; the right of security, by which a man has a right to be locked up in the station-house, if found drunk and incapable of taking care of himself; the right of personal liberty, by which a person may go wherever he pleases, if he has only the money necessary to pay the fare; and the right of private property, enabling every man to keep what he has got, when the government has helped itself, through the medium of taxation, to all that it requires.

The right of personal security consists in the legal enjoyment of life, limbs, health, and reputation—from which it would seem that a man may draw his breath and stretch his legs without impediment. A man's limbs are understood to be those members which are useful to him in fight; and these, says Glanvil, include "ye armes with whyche he may fyghte, and ye legges with whyche he may runne awaye, whychsoever may beste suitte his whymme at ye moment."

In the eye of the law, the life and limbs of a man are of such value, that he may sacrifice the life and limbs of any one else in defending them. This, says Coke, is upon the good old English principle of tit for tat; but what is the origin of the word "tit," or what is the exact meaning of "tat," the old jurists have never told us. There is no man so poor and indigent but that he may demand a supply sufficient for the necessaries of life,—though he may demand long enough before he will get them. It is true, there are the Union workhouses, where, if bread is asked for, stones will be given; and when a man has broken those, he may break his fast afterwards.

Next to personal security comes personal liberty, which consists in the power of moving from place to place,—a luxury often indulged in by debtors, occupants of furnished lodgings, and others, who prize liberty to such an extent, that the liberties they take are truly wonderful. *Magna Charta* says, that no freeman shall be imprisoned, except by his peers; and, if this be true, every policeman who walks a man off to the station-house, must be considered as a peer for temporary purposes.

The 16th of Charles the First gives to any one in prison the power of having his body brought before the sovereign in council, that it may be determined if he is rightly in

custody; but this glorious old privilege would give the sovereign in council enough to do, if every gentleman who happened to have been "found drunk in the streets" should take advantage of it.

One of the great beauties of the *Habeas Corpus* act is, that it prevents a government from tyrannizing, and yet as this would fetter the hands of government, it may be suspended at the government's will; and thus, says Fleta, "the subject is free, and yet not too free; while government is strong, yet not too strong," from which it appears this magnificent palladium of our liberties is neither one thing nor the other.

It now becomes a question, "What is imprisonment?" Unlawfully detaining a man in any way, is imprisonment; and *semble* that if you take your neighbour by the button, and cause him to listen to a long story, you are guilty of imprisonment. An omnibus driver, who loiters on the road, and thus detains his passengers, is also guilty of imprisonment.

Every Englishman has a right to live in England; or at least, if he cannot live, he may have the glorious privilege of starving there. The sovereign may not send a subject even to Scotland, Guernsey, or Sark, though George the Fourth sent Brummell to Coventry; and our present queen has been heard to tell Sir Robert Peel to go to Bath, when he has proposed measures contrary to the welfare and happiness of the people. The third right is the right of property, which the law peculiarly regards, and will not allow a man to be deprived of his property except by the law itself, "which often," says Fleta, "hath a happie knacke of stryppinge him."

It is a beautiful fiction of the English law that no man pays taxes without his own consent; and, from this assertion, it would naturally be supposed that the tax-gatherers were the very idols of the people, who flocked round them, tendering specie, and asking receipts for it. By legal imagery, the people are declared to tax themselves; but Bracton, in a learned note, added "Hookey" to this assertion; while Mr. Selden, by way of strengthening the comment, has subjoined "Walker," with his customary quaintness.

Besides the great rights already touched on, there are a

few auxiliary rights; the first of which is the right of demanding justice—when you can afford to pay for it; and getting justice—when you are fortunate enough to obtain it.

The words of *Magna Charta* are these:—"*Nulli vendemus, nulli negabimus aut differemus, rectum vel justitiam;*" meaning literally—"We will sell, deny, or delay, justice to no man." Who the "we" may be that make this promise it is hard to say, for nobody thinks of keeping it. As to justice never being sold, let any man look at the bill of costs he gets from his attorney. As to its being denied, let him seek justice in a Court of Requests; and as to its being delayed, let him commence a suit in Chancery. Coke, who is the funniest fellow for a law writer that was ever known, says that any man "may have justice and right freely without sale, fully without any denial, and speedily without delay,"—a burst of humour such as old Coke very often favours us with.

The law cannot be altered, except by Parliament and the Court of Requests; the latter having, in fact, greater power than the former; for, while the one only alters the law, the other utterly demolishes it. The sovereign may, it is true, erect new courts, but they must proceed in the old way; or he may turn a garret into a court, as in the case of Vice-Chancellor Wigram, who was thrust—with the sword of Justice—into a three-pair back, where, to continue the figure, he had scarcely room to brandish the avenging weapon, with comfort to himself and satisfaction to the suitors.

The right of petitioning is another glorious privilege of Englishmen; but they do not often get much by it. Puffendorf, or somebody else, has said, "They who don't ask, don't want; but those who do ask, sha'n't have;" and *semble* that this is the sort of view which Parliament takes of any wishes, expressed or not expressed, which do not happen to coincide with the wishes of the legislature.

The last right at present deserving of mention is the right of having arms for one's defence; and by the first of William and Mary, though it is the very last one would think of attending to, any man may walk about town with a gun, for the purpose of self-preservation.

Such are the rights and liberties of Englishmen, which

are less understood than talked about, and less practically experienced than either.

CHAPTER II.

OF THE PARLIAMENT.

Devoting ourselves once more to our task, we shall now treat of the relation men bear to one another in the way of government. The governors and the governed are relations in some sort: for the king, or governor, is the father of his people, and one's father is, therefore, often called "the governor." Of magistrates, some are supreme, and some subordinate; but the subordinate magistrates sometimes render themselves supremely ridiculous.

In tyrannical governments, the supreme magistrate both makes and enforces the laws, acting in the double capacity of protector and punisher of the people, which is something like an actor combining the fathers, or benevolent old men, with the heavy business. When the magistrate makes laws, and enforces them also, he does as he pleases, but is not likely to please in what he does; and, therefore, in England, the supreme power is divided into two branches—the one executive, consisting of the sovereign alone; and the other legislative, to wit (as the lawyers say, though the wit is rather obscure)—*to wit*, the Parliament! Parliament is a word derived from *parler*, to talk, and *mentir*, to lie, and in this respect Parliament proves itself fully worthy of its origin. The antiquity of Parliaments is so great that no one can trace their beginning; and it is sometimes as difficult to say what is the end they are driving at. In England the Parliament used to be called *Wittema Gemote*, a meeting of wise or witty men; and probably the "three wise men of Gotham," who "went to sea in a bowl," were members of the *Wittema Gemote;* at least, if we may judge by the qualities of the collective wisdom which has succeeded the *Michel-Synoth*, or great council of the nation.

Glanville, who wrote in the time of Henry the Second,

in reporting a case in the Sheriff's court, from which it would appear that Red Lion Square was built very soon after the invasion, alludes vaguely to a sort of meeting, which, it is said, was very likely to have been the Parliament; and as the body in question appears to have done no good, but rendered something quite obscure, the suggestion that it was the Parliament seems to be extremely feasible.

Antiquaries, who are "nothing if not at loggerheads" with one another, have disputed—first, as to who summoned the Parliaments; secondly, whether anybody summoned them at all; thirdly, if summoned, whether they came; fourthly, whether they came without summoning; fifthly, whether they came exactly when they were summoned; and, sixthly, if the same who were summoned, or sum-un else, actually came; none of which controversies do we think it expedient (just now) to go into. It is sufficient for our present purpose, that John, in the celebrated "bit of stiff," known as Magna Charta—that glorious bill drawn by the barons and accepted by himself, promised to summon the nobles personally, and the Commons by the sheriff and bailiffs; from which it would seem that the Commons were hunted up by the ancestors of the Slowmans, the Levys, the Thompsons, the Selbys, and the Davises.

Parliament can only be convened by the authority of the sovereign, except on the death of either a king or a queen; when, if there be no Parliament in being, the last Parliament revives, which has caused Fleta to make the very indifferent joke, that "Whereas ye cattes have nine lives, ye rattes—meaninge ye Commones—have only two, and thatte seldome." If kings won't summon Parliament for three years, it seems that formerly peers might issue out writs; but if kings wouldn't summon peers, and peers wouldn't issue writs, the only way for the country to get over the stile, was for constituents to meet and elect members—a privilege that was taken away by the 16th of Charles II.; so that in these days if sovereigns won't summon Parliament, there is really no help for it.

Wherever it is laid down in the law books that a thing can't be done, it may be assumed with tolerable certainty

that the thing has been done; and hence we find, that though Parliament may not summon itself, it has summoned itself on several occasions, particularly in 1688, when the glorious Revolution, by a piece of glorious irregularity, was fully accomplished. At the present time the happy idea of voting the royal income from year to year, renders it pretty certain that the sovereign will summon the Parliament annually; a practice which is "safe" to be adopted by every sovereign. Parliament consists of the Lords and the King in one house, with the Commons by themselves in another, and the three together form a corporation; the sovereign forming the head, the Lords the trunk, and the Commons the members. The King has the power of putting a negative on the measures of the Lords and Commons; he can practise that prevention, which is familiarly said to be "better than cure;" and indeed the nobility can check the people, while the sovereign can check both; an idea, no doubt, taken from the situation in the *Critic*, where the beef-eaters, the lovers, and the daughters are all unable to move, because of the hold they have over one another.

The Sovereign will be the subject of future chapters; but we shall now take the liberty to anatomize the Lords, and will commence with a delicate dash at the Lords Spiritual.

The Lords Spiritual consist of two Archbishops and twenty-four Bishops, but the latter are, in one sense, almost as arch as the former. When Henry VIII. dissolved monasteries, there were also twenty-seven mitred abbots and two priors, the latter of whom enjoyed only a nominal priority; and the mitred abbots were probably so called, from meeting at the Mitre in Fleet-street—a tavern celebrated as the resort of Johnson, a copy of whose life in four volumes (two on each side) still adorns the chimney-piece.

The Lords Temporal consist of all the peers of the realm, some of whom sit by descent; and, indeed, the descent is in some cases terrific, from a very great man to a very little one. Some peers are as old as the creation; but, as such creations are frequently happening, there is no very great antiquity to boast of. The number of the peers is indefinite, and they may be made (as soap and candles are advertised to be sold) in large or small quantities.

The distinction of rank is said to be very desirable; be-

cause it preserves that scale of dignity, which proceeds from the peasant to the prince—rising like a pyramid from a broad foundation, and diminishing almost to a point—the Prince of Wales being the point in this case; or, as the lawyers would say, the case in point; and, it must be admitted, a very little one.

The Commons consist of all men of property who have not a seat in the Lords—and they all have a voice in the Commons, the members acting as voice conductors; but it is, in most cases, "*Vox et præterea nihil!*"

These are the constituent parts of a Parliament; which, according to Coke, is so powerful that it can do any thing or every thing; and yet, with all this omnipotence, it frequently prefers doing nothing. Parliament has various privileges, one of which is the privilege of speech—and of this the members take advantage, by talking very much and very foolishly.

The privileges of the peers are numerous:—first, stands the right of killing the king's deer on the way to Parliament, but as there are no deer—in fact no game at all, but a few ducks on the ornamental water in St. James's Park, this sporting privilege is seldom taken advantage of. The peers may also be attended by the judges, but they are themselves far too good judges to subject themselves to such learned bores. A peer may vote by proxy, and enter a protest, the latter being a luxury, which a coughed-down peer is glad to take advantage of. All bills affecting the peers are to begin in the Upper House, but what will be their end, or what end they have in view, is often a mystery.

The chief privilege of the Commons is to tax the people, which is declared to be nothing more than the people taxing themselves—a piece of logical *hocus pocus* which Sir Matthew Hale vainly endeavours to invest with that plainness which is said to be peculiar to the pike-staff. One of the great advantages connected with Parliament is, that it may be adjourned; but a greater advantage still is, that it may be dissolved, and sent about its business altogether. When Parliament is dissolved by the sovereign in person, *semble* that gravel is laid down all the way from the palace to the house; but this is not laid down by Coke, or indeed by any body but Messrs. Darke the dustmen. A Parliament may

be extinguished by the royal will like a candle, or it may go out, by length of time, like a rush-light. A prorogation is a process something in the nature of snuffing, causing it to brighten up for an ensuing session.

CHAPTER III.

OF THE KING (OR QUEEN) AND HIS (OR HER) TITLE.

THE supreme or executive power is vested by our laws in a single person—though that single person very often happens to be a married one. Whether this person be masculine or feminine is of no consequence, and, indeed, Hale thought the sovereign ought always to be neuter.

In discussing the royal rights, we shall look at the sovereign under six distinct views, which is levelling royalty with the Cosmorama in Regent-street, where "six views" are constantly being exhibited. Our first view will be a glance at the title of the sovereign; 2dly, we shall take a squint at his (or her) royal family; 3dly, we shall apply our quizzing-glass to his (or her) councils; 4thly, we shall put on our spectacles to look into his (or her) duties; 5thly, we shall indulge in a peep at his (or her) prerogative; and, 6thly, we shall take out our gold-mounted opera-glass to look into his (or her) revenue.

First, of the Title. It is of the highest importance to avoid those unseemly scrambles for the crown, which, while forming capital subjects for dramatic representation—*vide* Richard the Third—would be a great interruption to the business of every-day life, if they were at the present time liable to happen. The grand fundamental maxim, on the right of succession to the throne, must be taken to be this, that the crown is hereditary in all cases, except those in which it isn't.

In the infancy of a state, the chief magistrate is generally elective, and when Old England gets into her second childhood, but not till then, we may look for an elective monarchy in this country. At present we cannot form any conception of such a state of things. We cannot fancy Victoria can-

vassing the people, and having a central committee constantly sitting at the Crown and Anchor to promote her election. This may do very well in America, though it did not answer in ancient Rome, nor in modern Poland, in which last place, by the bye, it was natural to suppose that the candidate who got to the top of the Poll, should be placed at the head of the Poles—a pun which the learned Bracton might, with good reason, have boasted of.

2dly, As to the particular mode of inheritance. The English crown descends in a line, but history tells us that this line is sometimes a very crooked one. Males are preferred to females, a constitutional maxim which may be traced to Lindley Murray, who declares in his grammar that "the masculine is worthier than the feminine." But the females don't all take an equal share, as in common inheritance, for had this been the case, the English crown would have dwindled, in the time of Mary and Elizabeth, to a couple of half-crowns, which would have much detracted from its dignity. The constitution is always very jealous of letting the crown get into the hands of an uncle—probably from the value of the jewels, for when jewels get into an uncle's hand it is difficult, indeed, to get them out again. It is a maxim that "the king never dies:" but this is a quibble, like that which asserts that "to-morrow never comes," for if kings never died, William the Conqueror would be now residing at Buckingham Palace, and granting occasional interviews to Sir R. Peel or the Duke of Wellington. The fact is, that when one king is cut off, another, like the head of a hydra, springs up to replace him, and the well-known burst of enthusiasm on the part of our present sovereign, who is said to have flourished her night-cap, exclaiming "Hurrah—hurrah—I'm Queen of England," was in conformity with the constitutional maxim alluded to.

We shall now proceed to trace the crown from Egbert, who found himself one fine morning a sort of seven in one, uniting in his own person all the kingdoms of the Heptarchy. In the course of 200 years we find the crown on the head of Edmund Ironsides, from whom it was claimed by Canute, who took a composition of 10*s*. in the pound, or in other words accepted half, but on the death of Ironsides, who deserved the second title of Leadenhead, clutched the whole

of it. Edward the Confessor, who, we have already seen, never confessed any thing, then got hold of the crown, which of right belonged to Edward, surnamed the outlaw, who was probably keeping out of the way to avoid process. On the death of the Confessor, Harold the Second usurped the throne, from which he was pitched neck and crop by William the Norman, who pretended to have got a grant of it from the Confessor, and may probably have raked up some old cognovit given by Edward, which would after all account for his having the title of Confessor—a cognovit being, as the legal student will hereafter be told, a confession of a debt and a judgment. William the Conqueror having defeated Harold, at Hastings, left that delightful watering-place for London, and having tried on the crown, it was found such a capital fit, that it was firmly fixed upon his head, and descended to his children.

It would be useless to trace the crown through its various vicissitudes—now being let out to fit the capacious head of the son of John of Gaunt, who "tried it on" successfully, as Henry the Fourth, and now taken in to suit the delicate forehead of Elizabeth.

The crown was at length laid aside for a time in consequence of Charles the First being deprived of a head to wear it upon. James the Second subsequently ascended the throne, but soon "cut," and failing to "come again," he was declared, if we may be allowed a Parliamentary parallel, to have accepted the Chiltern Hundreds. It is not at all improbable that the people acted with the utmost delicacy in reference to the absconding of James, and probably inserted in the papers of the day something like the following advertisement:—"If James the Second does not call at the Houses of Parliament on or before Saturday next, the crown, and other property which he has left behind him, will be immediately disposed of."

His Majesty continuing to play at hide-and-seek, a treaty was entered into with the Prince and Princess of Orange, which is called "the glorious Revolution of 1668," which was effected without even so much as a row in the streets, or the police being called in to preserve order.

The remainder of the crown was settled on the heirs of the Princess Sophia, the Electress of Hanover; but what

this remainder was, when some one else had got it all, we leave our arithmetically disposed readers to calculate.

After the death of Anne, George the First was honoured by that uneasiness in the head which is, according to Shakspeare, the natural consequence of wearing a crown, which has now descended—we hope without subjecting her to any headache at all—on our most gracious Majesty Queen Victoria.

The succession to the throne was formerly unconditional, but now it is limited to such of the heirs of the Princess Sophia as are Protestants; and some over-zealous persons have feared that her Majesty may imbibe Catholic notions by visiting Catholic nations—a fear which, we are bound to say, we do not participate. The Queen is, we know, devoted to the interests of the mass, but not to the mass performed in Catholic Churches.

Such is the constitutional doctrine of the descent of the crown, for which every good Englishman should be ready to draw his sword, or,—supposing him to be without a sword,—to brandish his walking-stick.

CHAPTER IV.

OF THE KING'S OR QUEEN'S ROYAL FAMILY.

The Queen is either Queen Regent, Queen Consort, or Queen Dowager. The Queen Regent has all the powers of a king, and, in relation to her husband, is the highest possible illustration of the old adage that "the gray mare is the better horse." The Queen Consort is, like other married women, but is separate and distinct from the king, though the Queen's Consort—*vide* Albert—is never desirous of quitting the side of the sovereign. Another privilege of a Queen Consort is that of paying no toll, and it would seem that Prince Albert might enjoy the luxury of bolting over Waterloo bridge without satisfying the 'pike, and indulge in other freaks of a Rebeccaite complexion. The Queen Consort is also entitled to some money called queen-gold, which is one mark out of every ten that any

person will voluntarily give to the king, her husband. What may be the value of this revenue can be ascertained by calculating, 1st, what is a mark? and, 2dly, who is fool enough in these days to make a voluntary offer of ten marks to the king? When the total of this is ascertained, ten per cent. of the amount will comprise the value of the queen-gold alluded to.

In Domesday-book we find that out of rents due to the crown, there used to be reserved some money to buy wool for her Majesty's use, and oil for her Majesty's lamps, from which it would seem that the queens were famous for wool-gathering by candle-light. There are traces of this payment in the pipe-roll of Henry the First, from which it would appear that when the king was called upon to pay it, he used "to put that in his pipe and smoke it." Henry the Second seems to have understood how to collect this tax, for it is alluded to in the ancient dialogue of the exchequer, written by Gervase of Tilbury; but whether Gervase took his name from a Tilbury, or whether, being called Tilbury, his gig was nominated after him, we have no distinct evidence. Queen-gold afterwards fell into disuse, because there was no queen to look after it; but Anne, the consort of James the First, tried it on, though it was, according to Spelman, *Nullum ire*, or "No go," and accordingly she abandoned her claim to it.

Another privilege of the Queen Consort is a right to a whale taken on the Strand, but there has been no whale in our days nearer to the Strand than Charing-Cross, where the skeleton of a whale was exhibited. There being no Queen Consort to claim the bone of the whale, the whale was not boned on behalf of royalty. The reason of this old claim is said to have been that the Queen Consort required whalebone for her wardrobe, and for that of her visitors, a reason which points of course to the English practice of ladies wearing stays—but Coke hints, that these visitors, if they wanted an entire whale, must have intended to make a very long stay with the Queen, or so much bone could not have been required.

In the present day the Queen is entitled to the Prince of Wales, but it is not likely there will be any bones about it,

for no one would dispute her Majesty's prerogative with regard to the entire possession of the heir-apparent.

It is treason to compass or imagine the death of the Queen Consort; but as we never yet saw a pair of compasses with which the death of a Queen Consort could be compassed, the statute—which is the 25th of Edward the Third—is never acted on. A Queen Dowager enjoys various privileges, among the most valuable of which is 100,000*l.* per annum. Any one marrying a Queen Dowager without special license from the king, is liable to forfeit his goods; but *semble* that Dunn, the Irish barrister, who set his gossamer at Miss Burdett Coutts, would not have been deterred from a match he had set his heart upon, even though it cost him his liberty; a Queen Dowager does not lose her title if she marries a private gentleman; for when Catherine, the widow of Henry Fifth, married Owen ap Meredith ap Theodore—who was a mere man about town—she was not called Mrs. Ap Meredith ap Theodore—but she retained the name of Queen of England.

The Prince of Wales and the Princess Royal are peculiarly regarded by the laws, and so is the Prince of Wales's wife; but as Coke would say—"This is counting ye chickens before hatching them." The heir-apparent is Duke of Cornwall as soon as he is born, because there are certain revenues which it is thought advisable to clutch at the earliest moment possible.

The rest of the royal family may be considered in various lights; but as there is a probability that the royal couple, like the Bank of England, will be continually "adding to the rest," we shall postpone our remarks to a future period.

The only privilege enjoyed by the junior branches is, a seat at the side of the cloth of estate in the Parliament chamber; though we do not see how the cloth of estate can be more desirable than the horse-hair cushion of comfort. By the statute of Henry the Eighth, it was high treason to contract a marriage with the King's reputed children; but by the new act, the nuptial state may be entered into under certain restrictions; but if the conditions are not complied with, any one being present at the marriage incurs the penalties of a *præmunire*, which is "important to the

marrow-bones and cleavers," no less than to the friends of the happy—but treasonable couple!

CHAPTER V.

OF THE COUNCILS BELONGING TO THE KING (OR QUEEN).

In order to assist the Sovereign, there are councils to advise him; and, though it is said there is wisdom in a multiplicity of councillors, there is more often folly in those by whom the monarch is guided.

First comes the Parliament, which we have already treated of; that is to say, given our readers a treat on that interesting subject.

Secondly come the Peers, who are by birth entitled to counsel and defend the king; but some of them get him into a scrape by their advice, and then leave him to get out of it as he can—which is the case when a ministry proposes something unpopular, and leaves the king alone in his glory, by resigning when the measure cannot be carried.

The advice of the peers being found, from experience, not worth having, the practice of asking it fell into disuse, until it was revived in 1640 by Charles the First, who must have lost his head, figuratively speaking, when he wanted the advice of the peers—as he did substantially lose his head after the said advice was given to him.

Any particular peer may demand an audience of the king; but some peers, who are not over-particular, demand audiences about nothing at all—as though Lord Brougham were to ask a personal interview with her Majesty to discuss his (Lord Brougham's) own individual merits.

Another portion of the king's council comprises the judges; but it does not seem that the sovereign has any power to ask their opinion about any thing; and, considering that if he did ask opinions of all the fifteen upon one point, he would scarcely find two alike; his inability to consult them is no great loss to him.

Then there is the Privy Council, the number of which is indefinite, consisting of persons chosen by the king; but

it is conveniently managed that the opinion of most of them is never asked—which is a great protection to the country.

The qualifications of a privy councillor consist in his ability to take an oath; but no other qualification, either mental or otherwise, is requisite, as may be seen by the names of some of those who, at the present moment, belong to the privy council.

The duties of a privy councillor are generally "to keep and do all that a counsellor ought." Most of them fulfil this condition by keeping all they get, and doing anybody they can, with a zeal that is truly astonishing.

The Privy Council seems to have no original jurisdiction in any thing but matters of lunacy or idiocy, which, it is said, properly belong to them. If any person claims an island, the Privy Council has jurisdiction; from which, it seems, that if the tenant of the Eel-pie Island were to be ejected for rent in arrear, it would be a matter for the Privy Council, instead of the broker.

By a late act, there has been created a tribunal, called "The Judicial Committee of the Privy Council," which adds another court of appeal to those already in existence, and thus supplies an opportunity for more law to those who in the inferior courts have not had enough of it.

The chief privilege of privy councillors is the security given them against attempts upon their lives, which renders it felony to "imagine" the death of any one of them. The reader will see the danger of allowing the imagination to wander to the possibility of a privy councillor popping from the hooks, or applying the foot with any degree of force to the bucket. This statute was made upon Sieur Guiscard attempting to stab Mr. Harley; but as this popular comedian is at present a member of the Drury-lane Company, it is evident that the Sieur Guiscard did not succeed in his murderous effort. The Privy Council may be dissolved at any time by the Sovereign, and in this respect it resembles a Seidlitz powder, which can be dissolved at a moment's notice.

The importance of the Privy Council has been getting, for many years, small by degrees and beautifully less. The only wonder is that, looking at some of the names, any importance at all is attached to it.

CHAPTER VI.

OF THE KING'S (OR QUEEN'S) DUTIES.

We now come to the duties of the sovereign, which will form a very short chapter, though the prerogative, which comes next, will not be so briefly disposed of. The principal duty of the sovereign is to govern according to law, which is no such easy matter, when it is considered how frightfully uncertain the law is, and how difficult it must be to govern according to any thing so horridly dubious. Bracton, who wrote in the time of Henry the Third—and a nice time he had of it—declares that the king is subject to nothing on earth; but Henry the Eighth was subject to the gout, and Queen Anne is thought to have been subject to chilblains. Fortescue, who was the Archbold of his day, and was always bringing out law books, tells us the important fact that "the king takes an oath at his coronation, and is bound to keep it;" but *semble*, say we, that if he did not choose to keep it he could not be had up at the Old Bailey for perjury. Fortescue deserves "a pinch for stale news," which was the schoolboy penalty, in our time, for very late intelligence.

To obviate all doubts and difficulties, a statute was passed in the reign of William the Third, which rendered matters more doubtful and more difficult. It was enacted that the "laws of England are the birthright of the people;" but there is such a thundering legacy duty, in the shape of costs, that few people like to administer and take possession of their precious birthright. The statute further goes on to say, that "all kings and queens *ought*" to do so and so, and that "all officers and ministers *ought* to" do this, that, and the other; but, as Coke quaintly says in his dog French, "ought est sur son pied pour reang" (ought *is upon its feet*, the canine Norman or dog French for *stands*, —*pour reang* for nothing).

The duties of the sovereign are briefly set forth in the Coronation oath, which is arranged as a duet for the archbishop or bishop and the sovereign. There is, however, something evasive in the replies—for while the archbishop's

question commences with the words "Will you promise and swear?" the answer merely says, "I promise," and leaves the swearing part completely out of the question.

The coronation oath was formerly written in Norman French, but, having been looked upon as a farce, it has since been done into English, probably by a member of the Dramatic Author's Society. The duties of the sovereign, then, are, 1st, To govern according to the law, which binds him to nothing; 2d, To execute judgment in mercy, which, as the sovereign can only be merciful at the suggestion of the Home Secretary, is not very practicable; 3d, To maintain the established religion, of which there are two, one for England, Ireland, and Wales; and another for Scotland. How the sovereign contrives to do both, is a problem we must leave to others to afford a solution of.

CHAPTER VII.

OF THE KING'S (OR, QUEEN'S) PREROGATIVE.

It is one of the beauties of our Constitution, that our natural liberties are only intrenched upon for the maintenance of our civil; and thus, though it would be natural with many to take great liberties, civility is ensured by the wholesome restrictions that all are subject to. There cannot be a greater mark of freedom, than our being at liberty to discuss the prerogative, and with our usual freedom we take the liberty of doing so. Prerogative is a word derived from *præ* and *rogo*, which means to ask before; but this is a contradiction, for prerogative implies doing first and not asking even afterwards.

Prerogatives are either direct or incidental; for instance, it is a direct prerogative for a street-keeper to warn off the boys, but it is an incidental prerogative, to run after them with the cane when they decline going.

The direct prerogative concerns the royal dignity, which is kept up by assigning to the sovereign certain qualities in bad Latin, and applying to him the term Imperial—which is also given to tips of hair on the chin, trunks belonging to

travelling carriages, quart pots of full measure, and ginger-beer of a respectable quality.

This word imperial, applied to the sovereign, means, that he is paramount in his own country, and is not regulated by any other laws than those which guided the bull in his celebrated tour (*de force*) in the china-shop. The Pope formerly claimed the power of controlling the King of England, and thus our allegory of the bull was liable to be rendered inapplicable by a Bull of his Holiness. "But," says Finch, "who shall command the King?" a question to which Finch is to this very day waiting for an answer. But if the sovereign can do as he pleases, it naturally becomes a matter of anxiety what the people can do if the sovereign don't please to do as he ought to do. In this dilemma we rush to Puffendorf for advice and consolation. We find in his law of N. and R. 1. 8, c. 10, that "A subject, so long as he is a subject, hath no way to *obliger* his prince to give him his due when he refuses it." *Semble* therefore, that in law the maxim does not hold good, that "Where there is a will there is a way;" and, indeed, many wills have been made away with; but this is a mere *obiter dictum* of our own, which we do not wish the reader to take particular notice of. In matters of private injury, it is usual for a subject to proceed against the sovereign by what is called a petition of right, when "the Chancellor will administer justice" (*Hookey, Chap.* I.), "from the mere love of justice" (*Walker, passim*).

In cases of public oppression, the remedy is against the ministers, who may be punished for giving bad advice to the sovereign. The advice, by a constitutional fiction, is never thought bad, because it is generally good for themselves; and thus the ministers somehow or other never get punished.

Throughout the whole of our Constitution there runs a feeling like that of the uncles, the nephews, the nieces, and the beef-eaters in Sheridan's *Critic*. It is such a beautiful system of check and counter-check, that nobody can do this for fear of somebody else doing that; and therefore all are compelled to do t'other. The theory is, that neither Lords, Commons, nor King can do wrong; but the practice very often is for none of them to do right; and there being no

remedy, we are assured there can be no wrong, because it is a maxim that there is no wrong without a remedy. This is such consolation as it might be to a creditor, who could not get paid, to be told that he is not wronged, because he is not righted; and that, in fact, as there can be no debt without the money, so there being no money to be had, nothing can be owing to him.

Whether a sovereign may be sent to the right about is a subject too delicate for us to write about, and we can only refer to the popular song of *Over the Water to Charlie*, or hint at the mode in which James the Second, after playing his cards badly, was altogether cut by the people as the best way of dealing with him.

It seems that either House of Parliament may remonstrate with the sovereign; but as one member was sent to the Tower for suggesting that the answer to the address contained "high words to fright the members out of their duty," this glorious privilege of remonstrance has been left in later times wholly unexercised.

It is a maxim that the King cannot be guilty of negligence or *laches*, that, in fact, he can never be too late—a maxim that is very useful to him when going by a railway, for no *laches* can make him late for the train, which must be always ready for him. *Nullum tempus occurrit Regi* is the standing maxim, which means that the time never occurs to the King, or that he has no occasion to trouble himself as to what o'clock it is.

A third attribute of the King is his perpetuity; for it is a maxim that the King never dies, but, we presume, simply mizzles. Dying is considered too harsh a term to apply to majesty, and what is naturally death is civilly termed the demise of the Crown, or a repeal of the union between the sovereign's body naturally and body politic. This maxim seems to us to be a remnant of that gross feudal flattery which whispered to Canute that the King could never be capsized and swamped—which nevertheless the King might have been.

The royal authority is so great, that any other authority is a branch of it; the policeman's staff being a shoot from the same tree, and so in former times was the watchman's rattle.

The King may reject bills that are public, and refuse to pay those that are private; he may make treaties, coin money, and create peers; yet it is said he can do no wrong; "may ceo," says the old Norman jurist, "est un grosse Monsonage;" for, he adds in the quaint dog French of his time, "boko de Peers sont tray Movais." He may also pardon offences, which, considering the unpardonable lot he has to do with, must be a great luxury.

With regard to foreign nations, the acts of the King bind his own; and as America has no King, there is nobody to be bound; which accounts for its bonds, especially the Pennsylvanian bonds, being utterly valueless. The King sends and receives ambassadors, who, representing their masters, are not liable to any laws in this country. Thus, if the French ambassador were to pick a gentleman's pocket, the ambassador could not be punished; but the King of the French would be called upon to adopt the larceny, and either make restitution or fight it out. It seems, also, that if the representative of the Porte should dine out, and take too much sherry, though he should be found lying drunk in the streets, he could not be fined five shillings. This is the essence of the whole of the law, as found in the books, on ambassadors. It seems, however, that a legate can never be tied by the leg; but may hop off at any time. It did, however, once happen, that the ambassador of Peter the Czar was, in the reign of Anne, set upon by the Selbys of that rude era, and torn from his coach for a debt of fifty pounds, which so irritated Peter, that he sent a letter demanding the ears of the Sheriff to be forwarded by return of post to Moscow. If such a demand were made in these days, it could not be complied with, for the ears of the present Sheriff (Moon) are much too long to be transmitted through the post-office. Peter was, however, pacified by an illuminated copy of an Act of Parliament, passed expressly to prevent such things in future. The illumination of the act was, no doubt, intended to throw a light upon it.

The king may also grant letters of marque, enabling ships to seize the subjects and goods of a particular state; but, as we are not likely to get into that state, it may be said that of these letters of marque there is now no likelihood.

The king may also grant safe conduct, which is some-

thing like an order given by a tyrant in a melodrama, to see the juvenile tragedian safe without the lines, accompanied by an assertion, that when next the parties meet, they meet as deadly foes. Perhaps the safest conduct in the present peaceful times is never to put your name to an accommodation bill, and to avoid becoming a security to a loan society.

The Sovereign is generalissimo of the army, and has the power of manning forts; but at present there is only one fort to man, which is Tilbury Fort, where a man may be constantly seen manning it. There was formerly a tax for building castles; but these are now maintained by the owners, except Jack Straw's, the Elephant, and a few others, where a sort of feudal revelry is kept up by those who choose to pay for it. To erect beacons is likewise a royal prerogative, but to knock the beacons down (*vide* the one in hand on the Goodwin Sands) is the prerogative of Neptune.

The King may also prohibit the exporting of arms, and he can also prevent the legs from leaving the country, by a *ne exeat regno*. When royalty can hinder any one from going abroad, it is strange that Lord Brougham does not pray on his own head the exercise of the prerogative.

The King is the fountain of justice, from which are supplied all the leaden reservoirs in Westminster Hall, and the Pumps at the inferior tribunals. The judges were formerly removable at the King's pleasure; but they were made fixtures by George the Third, and some of them manifest, at the present day, the most remarkable adhesiveness.

The Sovereign is supposed to be everywhere; and her present Majesty seems anxious to keep up the constitutional allegory, by running about here, there, and everywhere, when the weather will admit of it.

The King is also the fountain of honour, and lays it on —sometimes rather too thick—to those who are not quite worthy of receiving it. The King, as the head of Commerce, may also establish marts and fairs; but it does not seem that the enormous Bedding Mart was established by royal interference, nor that Rag Fair owes its origin to the same high intervention. Weights and measures are also regulated by the Sovereign; but to very little effect, if we

are to judge by the diminutive quantity of coals that go to a hundred, at some of the sheds in the metropolis.

With reference to currency and coining, over which the Sovereign has control, Coke lays it down, that money must be either gold or silver, from which it seems that Sir Edward had a soul above halfpence.

The Sovereign is also head of the church, and as such the royal assent is necessary to the validity of canons; but no assent could give validity to the cannon in St. James's Park, which is fit for nothing but old iron.

We have now gone through the whole of the royal prerogative, from which it appears royalty might do any thing, if it could; but, as it can't, it is capable of nothing.

CHAPTER VIII.

OF THE KING'S (OR QUEEN'S) REVENUE.

The Royal revenue is either ordinary or extraordinary; but what is ordinary for a sovereign, would be quite extraordinary for any other individual. It has subsisted time out of mind; and, indeed, the times must have been out of their mind, or mad, when they fixed the revenue at the enormous rate it was formerly fixed at.

The first item in the ordinary revenue consists of the temporalities of all bishoprics whenever a see becomes vacant; but these are now merely nominal; for there are always so many arms ready to thrust themselves into a pair of lawn sleeves the moment they are empty, that the Sovereign has no chance of making any thing by a see continuing unoccupied. William Rufus had a knack of keeping the sees empty a long time, and not only pocketing the temporalities to a pretty tune, but refusing to give them up to the new bishop without a considerable sum, which he generally managed to get; for few prelates were long contented with enjoying only the capacious sleeves, and the pasteboard mitre.

Secondly, The King is entitled to what the law calls a corody, namely, to send one of his chaplains to be main-

tained by the bishop, until the bishop promotes him to a benefice. This plan of quartering hungry curates upon well-fed prelates has now fallen into disuse. It certainly partook more of the military than the civil law, and was founded on the old practice of billeting soldiers upon publicans.

Thirdly, The King is entitled to the tithes of places that are extra-parochial; but, since tithes have been commuted, this branch of the royal revenue might be deposited in the royal eye, without any detriment to the royal eyesight.

The fourth branch comprises the First Fruits, which are not, as some have supposed, the earliest crop of gooseberries in the parish, but the first year's profits of the living; so that the parson would be compelled to live upon his wits during the first twelve months, or run into debt for that period to all the tradespeople. These First Fruits, amounting annually to a great deal more than a plum, were originally gathered for the use of the Pope; but Henry the Eighth, having thrown off the papal power, thought proper to bag the papal perquisites, and took possession of the First Fruits as a part of the royal revenue.

Queen Anne, however, to whom First Fruits, like unripe gooseberries, occasioned many a qualm, determined to give them up to augment the poorer livings, and the First Fruits have been preserved under the name of Queen Anne's Bounty.

The fifth branch consists of the rents and profits of the Crown Lands, including Regent-street and other sylvan retreats, which come under the jurisdiction of the Commissioners of Woods and Forests. What there is woody about Regent-street, except the pavement, it is difficult to say; and the connection with a forest is still more dubious, except that it was a *branch* of the royal revenue.

Formerly the Sovereign had the right of pre-emption, or buying up provisions, to the preference of others, without the consent of the owner; that is to say, he might have stopped the strawberry-women, as they walked into town, and bought every bottle of hautboys on his own terms; or he might have insisted on intercepting those wagon-loads of cabbages which pour into Covent-Garden Market, and have had them all put in at the very lowest figure for the

use of the royal household. This privilege of pre-emption was, however, resigned at the Restoration, by Charles the Second, who agreed to take it out in beer, or, in other words, receive a duty of fifteen pence a barrel on all the heavy wet sold in the kingdom.

The seventh branch consisted of a charge for licenses to sell wine; but as this was liable to evasion, by sloe-juice being sold instead, the revenue was abolished, and a compromise of 7000*l.* a year was taken by the crown instead of it.

The eighth branch consists of fines for violation of the forest laws, which have for many years past amounted exactly to the same sum, which may be quoted in round numbers at 0*l.* 0*s.* 0*d.*

The ninth branch consists of the profits arising from proceedings in Courts of Justice; but as there is more plague than profit in all legal proceedings, the royal revenue may here be quoted at about the same as Pennsylvanian bonds, or shares in the bridge of Waterloo.

The tenth branch comprises whale and sturgeon, which belong of right to the king, when thrown ashore or caught near the coast; but the cunning fish seldom give royalty a chance of netting any thing in this manner.

The king is, eleventhly, entitled to all legal wrecks; and "this," says Sir Peter Laurie, "is perhaps the reason why the king is called Rex, or Wrecks, in all legal documents." When the *Thunder* was wrecked by the reckless conduct of the crew of the *Lightning*, it does not appear that the sovereign claimed the former,

> As she lay,
> All the day,
> In the Bay of Lambeth-ho!

Twelfthly, the sovereign is entitled to all the gold mines in his dominions. As the Prince of Wales is a minor, perhaps he will be able to direct his royal parents to the mines alluded to.

Thirteenthly, the king is entitled to treasure-trove; that is to say, he may appropriate all the silver spoons, purses, banknotes, watches, pocket-handkerchiefs, and other valuables left lying in the streets without any one to pick them

up or own them. If a man throws his property into the sea or on to the earth, he is supposed to have abandoned it, and the sovereign may claim it; so that, if a gentleman, coming from a dinner-party, throws a handful of halfpence amongst a crowd, it seems that the sovereign might beat off the mob and pick up the copper.

Fourteenthly may be classed waifs, or property thrown down by a thief in the act of flight; so that if a pickpocket takes a handkerchief, and the king should happen to witness the act, he may cut after the thief in the hope of picking up a waif, by the article being thrown down, or dropped by the delinquent.

Fifteenthly are estrays, or animals found wandering about without an owner; and, considering how many donkies are in this erratic state, it is a wonder that this branch of the royal revenue is not more productive. It would, however, be converting the court of Buckingham Palace into a green-yard, if this source of income were to be looked after by the sovereign; and hence it is that cabmen can leave their horses on the rank, without fear of the animals being treated as estrays, and walked off to the palace for the benefit of royalty.

The sixteenth branch consists of confiscated goods, including deodands, or things forfeited on account of their having caused death by accident. If a wheel runs over a man and kills him, the wheel belongs to the king; and if an ox tosses up an individual so high that he never comes down again, (alive,) the king may enjoy the horns as a part of his revenue.

The seventeenth branch arises from escheats, or lands for which there are no heirs; but these lands are so scarce that there are no grounds for the supposition that the royal revenue derives any advantage from them.

The eighteenth branch of the king's revenue consists in the custody of idiots, or the right of appropriating the lands of a *purus idiota*, or right down fool—a class so numerous, that it was thought the property of the barons would gradually get into the hands of the sovereign; and, therefore, on petition, the estate of a *non compos* may be committed to the care of some one, for the benefit of the heir, for "the lords were naturally fearful," says Fleta, or Fleeter,

who is not quite so slow a coach as some of the jurists—"the lords were naturally fearful that the crown should make idiots of them all, and bone their property."

It seems, then, that out of eighteen sources of income, there is really nothing worth speaking of, to be got; and consequently, it is usual for the House of Commons to vote a Supply first, and then think about the Ways and Means of raising it.

We now come to the extraordinary branches of the revenue, and shall begin with the land-tax, which is a substitute for hydages, scutages, talliages, and other outlandish pretexts for getting hold of money.

In ancient times every knight was bound to attend the king in battle for forty days in a year; but as it would be very inconvenient for a man like Sir Peter Laurie to give his personal assistance in the wars, the matter came to be compromised for a sum of money called a scutage—and afterwards a hydage, probably in allusion to the hyding—or hiding—from which the compromise preserved the parties paying it.

Afterwards came the practice of subsidies, which consisted of money taken from the Commons, under the guise of their having granted it. These subsidies have now subsided into a land-tax.

Next comes the malt-tax, which is thought to be a proper penalty on the very uncourtly practice of biting the initials into pewter pots; and the customs form a part of the revenue, including butlerage, or the right of taking two tons of wine from every ship—a process which, considering the quantity of vessels that carry no wine at all, savours so much of getting blood out of a stone, that we are not surprised at the practice being abandoned.

The excise we need hardly allude to, for every one knows, by personal experience, the nature of it—there being scarcely a single article of consumption, that is not partly consumed by the excise duty.

The post office, the stamps, and the duty on hackney carriages, are also branches of the revenue—so that the badge on the omnibus conductor's breast is like so much money taken from his very heart—a remark that will also apply to the cab-driver.

The assessed taxes come next, and embrace the duty on windows, which constitute a terrible look-out for those who have to pay it. These taxes also comprise the impost on horses and dogs—which are said by Buffon to be the natural companions of man; but it is hard that man should have to pay so dearly for their company.

The tax on hair-powder used to fall heavily on the briefless barristers, but they have rushed recklessly into horsehair, and run their heads into a species of composition wig, which combines the lightness of wire with the durability of cat-gut. Armorial bearings are also liable to a duty; and it is therefore not safe to seal a letter with any thing but the top of a thimble, lest, by adopting a more elegant contrivance, the tax-gatherer should pounce down upon you for what he may call a crest; though it is in fact nothing but a chance device on a second-hand wafer-stamp. There is also a duty on pensions, perhaps to make up for the absence of duty on the part of those to whom the pensions are payable.

The first purpose to which the revenue is devoted is the interest of the national debt, which commenced in 1693, just five years after the glorious Revolution of 1688, and was probably one of the glorious results of it. The national debt has increased several millions, in spite of the efforts of certain commissioners for reducing it. These gentlemen now and then announce the fact of their having rubbed off a few pounds at one end, while, somehow or other, a few thousands have been rubbed on at the other. If, till the debt is paid off, the commission is to be continued, it may be fairly pronounced immortal. The only method of getting rid of it would be for the sovereign to file a petition at the Insolvent Court in the name of the nation, and solemnly take the benefit of the act, in the presence of all the fundholders.

The whole of the revenues already described were given up by George III. to the public, in lieu of an allowance which was called the civil list—from the extreme civility on the side both of the king and the people. Some complaints have been occasionally made of the large amount of this civil list; but when all things are considered—the state-coach, the drawing-rooms, the levees, the palace dinners,

and last, but not least, the royal progresses, we do not see how her Majesty can "do it respectably" for less money than is paid to her.

It will have been seen, from our view of the royal prerogative and revenue, that the sovereignty is tolerably well hedged in with restrictions, and has, after all, very few opportunities of rendering itself obnoxious.

The army is at its beck and call, but the Commons must vote the money for supporting it; and an army without pay would be little better than a steam-engine without steam, or the keeper of Burlington Arcade without his brass-bound bludgeon. It is true the sovereign has the run of the treasury, but there is seldom any money in hand, for it is always spent first and raised afterwards. It is not now as it was in the days of the Johns and Richards, who, directly they usurped the throne, used to jump into a cab and rush to the Horse Guards, "to secure," as Hume tells us, "the crown and treasure." These days of royal roguery are gone, and we may now venerate the crown and respect the sovereign, without feeling called upon to address to Englishmen those emphatic words, "Take care of your pockets."

CHAPTER IX.

OF SUBORDINATE MAGISTRATES.

We have hitherto considered only the Chief Magistrate, but we now come down to the subordinates; and when we say that we shall begin with the Sheriff, the drop from the throne to the shrieval office-stool appears, indeed, terrible.

First, of the Sheriffs. The Sheriff is an officer of very great antiquity, his name being derived from two Saxon words, which we don't print, because if we did, we could not read them ourselves, and we think the reader would find himself in the same predicament. In Latin he is called Vice-Comes, or Deputy of the Earl, though literally it means Viscount; but Viscount Moon, or Viscount Rogers,

would sound so absurd that the term Vice-Comes is no longer applied to a sheriff. The Earls formerly did the duties themselves; but, finding that there was now and then a man to be hanged, the Earls turned the matter over to the sheriffs, who afterwards relinquished the task to Jack Ketch, the Sheriffs only reserving the right to introduce their friends to illustrious criminals.

The Judges now choose the Sheriffs; but in the time of Henry VI. the king, having tried to make a sheriff, was told he could not, by Sir John Prisot and Sir John Fortescue, who delivered, probably in a duet like the following, the opinion of all the judges:—

Sir John Prisot.

Oh, no. You must not mention it.

Sir John Fortescue.

Your Majesty has err'd.

Sir John Prisot.

A sheriff you can never make.

Sir John Fortescue.

You can't, upon my word.

Both together.

From book to book we've search'd all day,
And have perused a set
Of old reports—but cannot find
A King-made sheriff yet.

Notwithstanding this judicial distich, the King occasionally amused himself by making a sheriff, and even to the present time what are called pocket-sheriffs are now and then manufactured by the hands of Royalty. The Sheriff, like the sunflower, lasts only a year, though he partakes occasionally of the holly-hock, which may be cut down one year and spring up the next, for a sheriff that has blossomed once may again flower into shrievalty.

The Sheriff is like a telescope, a pencil-case, or a trombone, including two or three official divisions in one, and requires drawing out before he can be fully appreciated; for he is a judge, a keeper of the peace, and a bailiff.

His judicial capacity is often a good deal like judicial *in-*

capacity. It was formerly limited to forty shillings, which was about as much as it was worth; but it has since been extended to twenty pounds, by virtue of a writ of trial.

As the keeper of the king's peace, the Sheriff is, for the time being, the first man in the county; that is to say, he is expected to be the first to rush on at a row, when there is a probability that the only advantage in being the first man in the county will be the privilege of being the first to get his head broken. He is bound to pursue and take all traitors; so that if Sheriff Moon should happen to see a traitor standing at the corner of Threadneedle-street, he (Moon) would be bound, as sheriff, to bolt after him. He may also summon the *posse comitatus*, or, in other words, call up the tag-rag to assist him in capturing or pursuing a felon. The sheriff, however, cannot try criminal offences; "For," says the facetious Fortescue, "it would be too much of a good thing that the Sheriff should try a man first, and hang him afterwards; for, of course, having to hang him, he has a direct interest in finding him guilty."

The Sheriff is also bound to execute all writs; and for this purpose he has officers called bailiffs, who frequently undergo martyrdom at the spout of the pump, and pass through other ordeals in their endeavours to catch that particular bird which their writ indicates. "The Under-sheriff," says Dalton, "is derived from the old Saxon word Under, signifying beneath, and Shriff or Shreff, which means the Sheriff."

After the Under-sheriff and the Bailiff, comes the Gaoler, "an officer," says Coke, "who is the have ye to the bailiff's catch ye; for he keeps fast or has in custody the bird that the bailiff has caught; and as there is no catch ye no have ye: so the gaoler, who doth have the gaol bird, would be useless without the bailiff who doth catch him."

We now come to the Coroner, whose office is very ancient; and, indeed, the Lord Chief Justice of the Queen's Bench is *ex officio* the chief coroner in the kingdom, so that it really—*semble* that Lord Denman might insist on sitting upon any body whenever he happened to feel an inquisitorial fit come over him. The Coroner is elected by the free-

[illegible] none but a discreet Knight could be [illegible], however, a discreet Knight is not

often to be found, and the office of Coroner is consequently given to mere Esquires, in whom discretion is not looked for. If any person dies suddenly, the Coroner must sit on the body, where the death happens; but, if a man is drowned by falling into the sea, it does not appear that the Coroner is bound to dive after the body and sit upon it. Another branch of his office is to sit upon wrecks, which can only be done when the top of the mast is sufficiently out of the water to enable the Coroner to sit in safety. He is also to inquire about treasure-trove, which gives him jurisdiction over mud-larks, who seek for coals at low water, and bone-grubbers, who rummage in dust-holes.

We now come to Justices of the Peace, who are a very miscellaneous set, beginning with no less a person than the Sovereign, and finishing with the Solons, who adorn the various benches of Magistrates. The duty of a Justice of the Peace is to suppress riots and affrays, and to hear and determine felonies; but if a justice sees an affray, he is often too much afraid to rush in and put an end to it.

After the Justice comes the Constable, a genus of which there are two species, the High and the Petty. The Petty Constable is as old as Alfred, but how old Alfred might have been we are unable to say with certainty. The Constable is armed with very great powers; and there is one at the Burlington Arcade, who is armed with an instrument of slaughter, but, happily for the nation, he never uses it. Nevertheless, when the Constable has nothing better to do, he may be seen breathing on the brass nob, and rubbing it up with his pocket handkerchief.

The Surveyors of the Highways form the next branch of subordinate magistrates; and their duty formerly was to call the inhabitants of the parish together, and order them to bring materials for repairing the roads. If this were now the case, the Dukes of Cambridge and Devonshire would be obliged to contribute a few blocks of wood to pave Piccadilly. To avoid this sort of inconvenience, a paving rate has been imposed; though there is no doubt that any inhabitant might claim the provisions of the statute of Henry the Eighth, and insist on mending his own ways, instead of paying a rate for doing so.

Lastly, we will consider the Overseers of the Poor, who

sometimes literally over-see or over-look the cases of distress requiring assistance. The poor law of Elizabeth has been superseded by a much poorer law of William the Fourth, the one great principle of which is to afford the luxury of divorce to persons in needy circumstances. It also discountenances relief to the able-bodied, a point which is effected by disabling, as far as possible, anybody who comes into the work-house. The Poor Law is administered by three Commissioners, who spend their time in diluting gruel and writing reports—trying experiments how little will suffice to prevent a repeal of the union between the soul and the body.

CHAPTER X.

OF THE PEOPLE, WHETHER ALIENS, DENIZENS, OR NATIVES.

HAVING treated of the Sovereign, we now come down to the small change, or, in other words, we turn from her Most Gracious Majesty the Queen, to his Most Miscellaneous Majesty the People.

The people are divided into aliens and natural born, though the latter are not necessarily born naturals. Natural born subjects are such as are born within the ligeance, or allegiance of the Sovereign; but aliens are such as are born out of it.

Allegiance is the tie which binds the subject to the Sovereign, and the form is derived from the Goths; who, under the feudal system, held their possessions under some lord, to whom they were vassals. The only remains of this system are to be met with at the Gothic Cottages in the Regent's Park, the tenants of which swear fealty every quarter to the lord or his house-agent. Formerly there was mutual trust between the tenant of the soil and the owner, but this trust has been much broken in upon, by the modern practice of "shooting the moon," which hath destroyed that sylvan state of simple confidence which formerly existed.

The vassal was formerly expected to defend the lord against his enemies; so that if the landlord of a house got into a street row, his vassals or lodgers were expected to

take part in it. This was called *fidelitas*, or fealty, the tenant taking an oath to protect the lord of the soil; but this is now commuted into an undertaking to pay the taxes, including a police rate, which secures the lord and the vassal also from violence. The oath of allegiance to the Sovereign is still taken by attorneys and barristers, on being admitted to practise; but, in consequence of their number, it has been arranged as a solo and chorus for the officer of the Court, and an unlimited number of voices, which chime in together, expressing their horror of the Pope, without knowing who the old gentleman is; and declaring that it is not lawful to murder foreign princes in the public street, as if any one in these days ever thought of assassinating continental royalty in Regent-street, or any of the leading thoroughfares.

It seems, however, that all subjects owe allegiance to the Sovereign, whether they have taken the oath or not; and it is very probable that the ideas of most people would be much the same on the slaughter of foreign princes, without going through the ceremony of swearing the awful affidavit alluded to.

Every person born within the English dominions owes allegiance to the Sovereign, from the moment of birth, being at once under the protection or particular patronage of royalty. The immense quantity of allegiance payable from persons of large families may therefore be conceived; and it must be held as a constitutional doctrine, that twins cause a double accession of loyalty. Local allegiance is something of the nature of portable gas, for it is movable, and only lighted up in the bosoms of aliens during their residence in this country, after which it may be turned off, or otherwise extinguished.

It seems that allegiance is as much due to the usurper as to the rightful Sovereign, and must be paid to whomsoever is on the throne for the time being. If, therefore, a lunatic should get into the throne-room in the Palace, and, sitting on the throne, proclaim himself king, it would seem that the royal housemaid would owe temporary allegiance to the madman, until a policeman should regularly dethrone him, and walk the usurper off to the nearest—that is to say, a much more humble—station.'

Allegiance is due to the person, and not to the dignity alone; for, in the time of Edward the Third, the Spencers were banished for refusing allegiance to the person of the King, and offering it to his crown, which was something like the notion of bowing to Gesler's hat, which, through Sheridan Knowles's "William Tell," every one is acquainted with. The sad tale of these Spencers led to the introduction of spencers with no tail at all, several centuries afterwards.

Natural born subjects have rights that nothing but their own misbehaviour can forfeit; such as the right of buying lands, if they have got the money to pay for them.

This glorious privilege may be enjoyed by the meanest subject, under the circumstances last alluded to.

An alien may purchase lands; but if he does, the Sovereign is entitled to them. Nevertheless, an alien may hire a house to live in, though the King of the Belgians, when he first came to London as an alien, occupied only lodgings, being those on the second floor of Hagger's oil and pickle shop in Oxford-street. The Prince, who is now the Lord of the Belgians and their soil, was then the vassal of Hagger, to whom he did weekly homage to the tune of thirty shillings.

An alien may trade freely; so that Verey dispenses dinners in strict conformity with the provisions of our glorious Constitution.

Children born out of England, whose father or grandfather, by the father's side, is in allegiance to the English Sovereign, are natural born subjects; and, therefore, the summer visitors to Boulogne are in no danger of producing a crop of young aliens—a result which would deprive the Sovereign of many subjects, and not only the *Sovereign*, but the *Emerald*, the *Sir William Wallace*, the *Grand Turk*, and the *Waterwitch*, of a great number of passengers.

The children of aliens, when born in England, are considered as natural born, and Pagliano's Hotel contributes annually a large stock of subjects to the British monarchy.

A denizen is an alien, who, by the royal prerogative, is made a natural: being, in fact an animal something like a mule, which, being between the horse and the ass, generally

partakes mostly of the latter. The denizen is indeed almost, not quite, a natural.

Naturalization can only be achieved by Act of Parliament; but even when naturalized, neither an alien nor a denizen can be a member of Parliament—a dignity that naturals only are thought worthy of.

There have been one or two attempts to introduce an act for the general naturalization of all foreigners; but the nearest approach to it is the statute naturalizing certain persons who have served two years in the army or navy, and some who have been three years fishing for whales; which really exhibits such a strong turn for natural history, that naturalization is the smallest compliment which can be paid to it.

So much for "the People," who have always got a number of "People's Friends," ready to serve them in all sorts of ways; but serving them out is the most usual course that is taken.

CHAPTER XI.

OF THE CLERGY.

The people are divided into the clergy and the laity, the former of whom will be the subject of this chapter; and a very lively chapter may be expected in consequence.

The clergy have several privileges, some of which were taken from them at the Reformation, in consequence of their having become impudent from the great liberties allowed to them. Many of the personal exemptions still continue. For instance, no one can be compelled to sit upon a jury, after he has taken orders; though *semble* that the persons at the free-list office in the theatres, notwithstanding their having taken orders, are liable to serve as jurymen. A clergyman cannot be chosen to any temporal office, such as bailiff or constable; so that a curate cannot be a bailiff at a lock-up house, nor could a rector act as a policeman in a street riot. A clergyman is also privileged from arrest, in going to and returning from the performance of duty, or, as the Norman Jurist expresses it, "il ne faut

pas commettre un tel faux pas de nabber il parsone, et lui porter hors de la pulpite jusqu'à maison de fermer au cle." (One must not commit such a false step, as to nab the parson, and carry him out of the pulpit to the lock-up house.) Formerly, a clergyman had what is called the benefit of clergy in cases of felony; a privilege which, if a layman had asked for, he would have been told, that the authorities would "see him hanged first." The last remnant of benefit of clergy was the benefit allowed every May-day to the sweeps, who were vulgarly called the clergy; but this has been almost swept away by the Ramoneur—a very upright invention, which, disdaining to force itself into holes and corners, leaves the soot to ignite in the crevices of the chimneys.

The clergymen have, however, several disabilities; for instance, they cannot sit in Parliament, but "that's not much," as Othello (one of Nature's clergymen) very properly observed, for there are many occasions, such as a financial discussion, when exclusion from the House of Commons must be regarded as a privilege, rather than a disability. Formerly a clergyman was not allowed to trade, but was restricted to the cure of souls. It does not seem, however, that even in the days of doubtful orthography—for our ancestors never *could* spell—a parson might have occupied himself in the drying of fish, which is certainly in one sense undertaking the cure of soles; for we do not find that Shakspeare's beautiful line in Hamlet, "Excellent well, you're a fishmonger," was ever applied to any reverend contemporary of the Swan of Avon.

It having been determined that a contract with any company, of which any spiritual persons were partners or members, was void—and this having been decided to be the law—another law was passed in the reign of her present Majesty to decide that it was not, or, if it was, it never ought to be. It might be a hint worthy of adoption by the repudiating States of America; for as there are, no doubt, spiritual persons among them, they may as well shuffle out of their liabilities, by reference to the fine old principles of English law, and thus give a sacred character to one of the sublimest swindles ever attempted in any age or country. By the new act, parsons may trade in joint-stock compa-

nies, their evanescence giving them, no doubt, a sort of ethereal character. The clergy may also trade in books, or in any thing connected with keeping a school, which admits of their adding to their income by selling ink and various other scholastic commodities.

We shall now consider the various ranks and degrees of the clergy, commencing with an archbishop, who is the greatest gun in the Church, according to all the canons. Archbishops were formerly elected by all the people; but the tumultuous scenes that arose were a great scandal; and indeed we cannot fancy his Grace of Canterbury placarding the town with posters, calling upon the public to "vote for Howley," or defacing the walls of the episcopal palace with the words, "Howley for Canterbury."

Archbishoprics afterwards came to be conferred by the sovereigns, till Gregory VII. exhibited a bull, declaring that princes should not meddle in the manufacture of prelates. Henry VIII., however, put an end to the Pope's pretensions, by giving the power of electing an archbishop or a bishop to the bishops themselves; that is to say, when his Majesty has made his own choice, he gives the prelates the power of conforming to it; or, in other words, rams a bishop down their throats, thus forcing them to swallow him.

An archbishop is a sort of inspector of all the bishops in his province; but he does not call them out like an inspector would so many policemen, to examine their mitres, and see that their lawn sleeves are properly starched, before going on duty in their respective dioceses. An archbishop may call out the bishops, just as a militia colonel may call out the militia; and it is his duty to look after the spiritualities of a vacant see, while the Crown takes care of the temporalities, which are the only remunerating part of the business. If a bishop does not fill up a vacant living in his diocese within six months, the archbishop may; but the bishop has generally too much archness to give a chance to his superior.

The archbishop also takes the first presentation to a living which may occur in a bishop's diocese, so that a bishop's mouth waters a good deal before he is suffered to quaff the sweets of patronage. The Archbishop of Canterbury has also the privilege of putting the crown on the heads of the

Kings and Queens of England; but this seems to be more a hatter's business, and we, therefore, do not enter into it.

Bishops have authority over the manners of the people; and we wonder, therefore, that the Bishop of London does not favour us with a book on etiquette.

Several alterations have been made, and others contemplated, by the Ecclesiastical Commissioners, appointed by Act of Parliament in the reign of William IV., to unite certain sees, by cutting through the barrier or isthmus that divided them.

We now come to deans and chapters, which would form a chapter of themselves, only there is no occasion for it. A dean and chapter are a sort of council to advise the bishop, who, however, seldom asks their advice; or, if he asks it, scarcely ever takes it. A dean formerly superintended ten canons, but this must have been in the days when the Church was disposed to be militant. The bishop is the superior of the dean and chapter, with the power of visiting them and "correcting their excesses;" which surely cannot mean administering soda-water after they have been rather convivial?

An archdeacon comes next to a bishop, and visits the clergy, leaving his card formally with some, and dropping in to tea, in a friendly manner, no doubt, with others.

Rural deans, in these anti-rural days, are nearly out of use. They had nothing to do but pry into the domestic affairs of the parochial clergy. They were called rural, very likely, from their love of country occupations, such as fishing for preferment, and making hay during sunshine.

We now come to the parson, a name derived from the word *persona*—a person; because the parson is a person; that is to say, he is in the parish decidedly "somebody." He is sometimes called the rector or ruler, but why, we cannot tell; for there is no rule to account for it.

Formerly, the monasteries appropriated to themselves the valuable part of a living, and contracted with some curate to do the work; the monasteries acting then, much as the "sweaters" do now, making a very good profit upon a task which they gave a beggarly sum to another party to execute. Henry VIII., however, determined to sweat the monastic sweaters; for, at the dissolution of monasteries,

he swept away the institutions, and pocketed the good things that belonged to them. The Crown having afterwards granted these things out to laymen, gave rise to what are called lay-appropriations, hands having been laid upon them by those who were most inappropriately possessed of them.

These appropriators used to get the duty done very cheap by a vicar; and there being much competition among the clergy, vicar's work was done on such very low terms, that there was an alarming sacrifice of the interests of the parishioners. This led to an Act being passed to protect vicars, by providing for their being better paid, and some of the smaller tithes were settled on the vicar; who, on the principle of "little fishes being sweet," no doubt eagerly clutched at them.

The duties incumbent on a parson are first to act as the incumbent, by living in the place where he has his living. By a recent Act, a parson absenting himself from his parsonage for upwards of three months in a year, forfeits a third of the value of his benefice, and so in proportion; so that if he stays away a whole year, he will have more to pay than to receive, and thus realize the homely picture of the man who is said to have won a shilling and lost eighteenpence.

There is only one way of becoming a parson or vicar, but five at least of ceasing to continue so:—1st. By dying, or going quite out, like an exhausted rushlight. 2d. By taking another and a better benefice, or, following the allegory of the light, being removed from a japan to a plated candlestick. 3d. By being made a bishop, or undergoing a sort of conversion from simple tallow to superior sperm. 4th. By resignation, or, still pursuing the simile of the light, suddenly going out, nobody knows why. And 5th. By deprivation, that is to say, being deprived of one's benefice altogether, and expelled from the clerical profession, which is like a gas lamp, completely cut from the company's main.

A curate is the lowest grade in the church, for he is a sort of journeyman parson, and several of them meet at a house of call in St. Paul's Church Yard, ready to job a

pulpit by the day, and being in fact "clergymen taken in to bait" by the landlord of the house alluded to.

From the clergy we come next to the churchwardens, who keep the church, and represent the parish. They also keep the accounts: and, in some cases, like that of Alderman Gibbs, these accounts are so literally kept, that it is hard to get hold of them. The churchwarden may keep order in the church; and if a boy giggles, it is the duty of the churchwarden to frown, or even to kick the juvenile's shins, if he should be near enough.

Parish clerks and sextons are also particularly regarded by the common law, which must be very common to regard such exceedingly common people. The parish clerk was formerly often in holy orders, but any one may be a parish clerk, excepting, by-the-bye, Macbeth, who was utterly disqualified for the post, inasmuch as he could not say "Amen," according to the authority of Shakspeare.

CHAPTER XII.

OF THE CIVIL STATE.

The Civil State includes every one of the laity who does not belong to the military or maritime state. But there are some of the military, such as the sentinels on duty at the Park, who are in a very civil state, when asked a civil question.

The Civil State consists of the nobility and commonalty, the former of which resembles, in some respects, "ginger beer from the fountain," the Sovereign being the fountain from which alone it is possible to draw nobility.

The Sovereign may invent any titles he pleases; but those now in use are Dukes, Marquesses, Earls, Viscounts, and Barons.

A Duke is derived from the Latin word *dux*, a military leader; and perhaps the practice of soldiers wearing dux or ducks in the present day, has something to do with it. In the time of Elizabeth, the order of Dukes became extinct; but it was galvanized fifty years afterwards. A Mar-

quess is the next degree of nobility, and is so called from the Teutonic word *marche*, a limit, because the Marquesses originally watched the limits of the kingdom; but whether they acted as a sort of coast-guard, or as a police on the frontiers, or as beadles to beat the bounds of the kingdom, we are wholly at a loss to make up our minds about. An Earl is a title so early, that it is impossible to trace its origin. It is supposed that after the Norman conquest, William made Earls of those who were the earliest to do him homage. The Saxons had their Ealdormen, which got corrupted into Earldermen, or, greater corruption still, into Aldermen. An Earl was at one time called a Count, from an old Norman pun of the Conqueror, who said "he could *Count* upon his *early* friends;" but, as the pun died off, the title was discontinued, leaving nothing to keep it in remembrance but the word County.

The sovereign, in writs, always styles an earl his "trusty and well-beloved *cousin*," a reason as old as Henry the Fourth, who had really cousined, or cozened, all the Earls, and was related to every one of them.

The next degree is that of Viscount, or vice-comes; which, though we have turned on the gas of research from the main of history, we are unable to throw a light upon.

The last, and most general degree of nobility, is that of Baron, which was formerly so numerous, that the King summoned only the greater ones to the council of the nation, and the others gradually became extinct, except the barony of Nathan, the holder of which, though not enjoying a seat in the peers, occupies a seat in or near the (Kennington) Commons.

Peerages were formerly annexed to lands; and even now there are some piers—such as those of Westminster-bridge—which only exist by the hold they have upon the soil; but this sort of tenure has now become very uncertain.

Peers are now created by writ or by patent; so that, when a sheriff's officer serves a person with a writ, he is said to be made *a-ppear* (*a peer*) by the writ being served on him. But every one who is summoned by a writ is not ennobled, and it is now usual to make peers by the batch.

Let us now examine the privileges of nobility, the first of which is the right of being tried by one's peers, the last

case being that of Westminster-bridge, which, when tried by its piers, was sentenced to have its head entirely removed, and was so far disgraced as to be brought down to a lower level.

A peer or peeress cannot be arrested in civil cases. Peers always give a verdict upon their honour; and there is something, therefore, very aristocratic in the term, "'Pon honour!" which is, probably, the reason why dandy footmen and shop-boys, "out for the day," generally make use of it. A peer cannot be deprived of his nobility, except by death or by attainder; though, in the reign of Edward the Fourth, George Neville, Duke of Bedford, was reduced to such a needy state, that he was degraded on account of his poverty. It is probable that he attended Parliament in a cotton-velvet robe, and a squirrel cape instead of real ermine; while, instead of the ducal coronet—irredeemably pledged, and the ticket out of date—he sported a sort of theatrical property, made of tinfoil and mother-of-pearl, cutting, in every respect, such a very shabby figure that the peers, amid loud cries of "Turn him out" got unceremoniously rid of him. The Act of Parliament by which it was accomplished was termed an "Act for Cutting the Tin Kettle from the tail of George Neville, Duke of Bedford." It is said, that if a Baron wastes his estate, the King may degrade him; but some Barons are in the habit of degrading themselves, by wasting their estates, without any interference of the Sovereign.

The first dignity beneath that of a Peer was a *vidames*, a title so old, that antiquarians quarrel greatly as to what a *vidames* was; though they agree pretty well in believing that such a thing as a *vidames* never existed. The first personal dignity after the nobility is consequently now settled to be that of a Knight of the Garter, instituted by Edward the Third to preserve tidiness in the stockings of the aristocracy; a point that has been beautifully kept in view by Shakspeare, who makes Hamlet wear his stockings about his heels, until he visits England, where it is supposed he has been invested with the Garter, and he consequently always appears in the last act with his silk hose properly adjusted.

Next comes a Knight Banneret, or a knight made by the

Sovereign in person on the field of battle; so that, if a civil war should break out in London, her Majesty might rush to Lincoln's Inn-fields and manufacture knights bannerets. After these come the Baronets, an order instituted by James the First to raise money to meet a bill for the reduction of Ulster. Next follow the Knights of the Bath, instituted by Henry the Fourth, and so called from the ceremony of taking a bath the night before their creation. This fact about the bath is given on the authority of a case in Shower.

William the Fourth instituted a Guelphic order, and a few knights were installed; but the instalments not being regularly kept up, the order expired.

Knights are called in Latin *equites;* and, indeed, all nations call their knights by some name connected with a horse, excepting the Scotch order of the Thistle, which seems to show that the Scotch knights are akin to another and a much more homely quadruped.

St. Patrick is the name of an Irish order; but St. Patrick's day, particularly in the morning, is more associated with the idea of dis-order than order; at least, it is generally considered so.

The lowest order of knighthood is that of the Knights Bachelors, the first of whom was Alfred's son, Athelstan, who must have been a single young man; and his wretched fate proves that he was ultimately "taken in and done for."

"These," says Coke, "are all the names of dignity;" but Sir Edward confounds together Esquires and Gentlemen, leaving the subject confoundedly obscure, according to the usual custom of the quaint old jurist. It has been said, that any one who wore coat armour was an Esquire; in which case the supernumeraries at Drury-lane, clothed as they are in block-tin dish-covers, must be considered Esquires while engaged in the performance of Richard the Third, but no longer. Camden, who was himself a herald, and blew the trumpet vigorously for any one who paid him, makes four degrees of Esquires. First, the eldest sons of knights, and their eldest sons, in successional crops, like broad beans or radishes. Second, the eldest sons of younger sons of peers, and their eldest sons in like succession; so that Baron Nathan's youngest son's eldest boy's firstborn male infant would be an Esquire, supposing the

Barony of Nathan to be acknowledged as a branch of the tree of English aristocracy. Third, Esquires created, like Baker's mangles, by patent. Fourth, Esquires who are so called from holding a place of trust under the Crown; but it is not decided whether the waiter at the Crown and Anchor comes under this head, as holding a place of trust under the Crown, the words "and Anchor" being rejected as surplusage.

As for Gentlemen, says Sir Thomas Smith, they who can live idly, and bear the port and charge of a gentleman —that is to say, can pay what is charged for port, and sit idly over it—shall be taken for a Gentleman. A Yeoman is one who hath land that brings him in forty shillings a year; but *semble* that a crossing, the sweeping of which produces forty shillings a year, does not constitute the sweeper a Yeoman.

The rest of the community are tradesmen, artificers, and labourers, who must all be styled, in legal proceedings, by their estate or mystery; but the estates of most of them would be a mystery indeed to any one attempting to describe them.

Such is the Civil State, which we have stated as civilly as circumstances will admit of.

CHAPTER XIII.

OF THE MILITARY AND MARITIME STATES.

The Military State includes the whole of the soldiery, from the Commander-in-Chief down to the raw recruit, or the private who has the honour of being stationed at the post of Storey's-gate, who is alluded to by the poet, in the fine line—

"The post of honour is a private station."

In a free country, it is said that the soldier is an object of jealousy, chiefly, we suppose, on account of the impression made by a red coat upon the fair sex. As to any other kind of jealousy the soldier creates, we are certainly

not aware of it, unless it be the natural jealousy felt by a police-man at the superiority of the steel bayonet over the wooden staff, and the cartridge-box over the lantern. A soldier does not put off the citizen when he becomes a soldier; and consequently many of our gallant army, whose wives are washerwomen, carry out the clothes in time of peace, and others lend a hand in the mangling—which, according to the old jurists, is not out of character with their slaughtering propensities. The laws of this country do not recognize a standing army; so that even, when on service, the soldiers are said to go to the *seat* of war—thus showing that a *standing* army is never contemplated.

All historians agree in declaring that Alfred invented the Militia, when every man in the kingdom was a soldier; and, considering what sort of soldiers the militia usually are, we should say that every man, woman, or child might have been. In those days, the Dukes led the soldiers, and had such power, that Duke Harold, although the wrongful heir, was strong enough to push from off the throne one Edgar Atheling, the rightful heir—an event, which if the Saxons had had a taste for melo-drama, would have made a fine subject for a piece, introducing "a grand combat of two"—including all the popular business of Harold cutting at Edgar Atheling's toes, while Edgar Atheling jumped up exclaiming, "No, you don't!" with a wink at the prime minister. Then, of course, would have come the grand last movement of clashing of swords together across the stage, till both disappear at the wing, when Harold would have returned alone, with both swords, in token of victory, and taken his seat on the throne—in which position he might have been "closed in" by the scene-shifters.

We have already, in a former chapter, spoken of the necessity a Knight was under to go for a soldier in case of war, but in peace the country was protected by a statute of Henry the Second, making it obligatory on every man to keep a certain quantity of arms; but it does not appear there was any law insisting on his knowing the use of them. These persons were, however, now and then called out, arms and all; and it is presumed this was done, as Camden hints, "to ennjoye a joyke at ye expennsse of ye people."

It is not, perhaps, generally known, that the whole of the dreadful row between Charles the First and the people, arose out of a dispute about the militia—the King pulling at them one way and the Parliament the other. The militia all the while was in those days just what it is in these—very indifferent.

After the restoration of Charles the Second, the King's right to do what he liked with the militia was recognized; and there is still a remnant of them who rent a coal-shed at Lancaster, which is called the *dépôt*, and from which three corpulent sergeants—for they are all officers and no men—would emerge in case of an invasion. During the election riots, the Lancaster militia put itself under the protection of the two policemen in the town; but, in the glorious language of the Constitution, "the militia are, after all, our great defence against foreign aggression." "After all" means, of course, when every thing else had been tried; and then, we say, Let England throw herself into the arms of the three sergeants at the coal-shed at Lancaster.

Besides the Militia, there is also the Yeomanry, who are more often called into service, and have several times distinguished themselves by keeping back the boys at processions and on other public occasions. We had almost forgotten to mention the Volunteers, who formerly had the command of all the parochial engines, pumps, and fire-ladders. That these troops would have stood fire manfully there can be no doubt, for their valour under an incessant pelting of water, was frequently put to the test during showers to which they were so often exposed, that it was once in contemplation to add an umbrella to the regulation bayonet. The Lumber Troop must not be forgotten, whose last recorded exploit was an encounter with the landlord of the public-house where the troop has its quarters.

Martial Law is a sort of law in which the military authorities do as they like with their own, and hang soldiers wholesale for the sake of preserving discipline. This can only be done in time of war; and it is now quite settled, that if a lieutenant hang a private for the mere fun of the thing, in time of peace, it would be murder, for it is against *Magna Charta*; so that it is fortunate for the heads of her Majesty's Foot that *Magna Charta* was hit upon.

There is an annual Mutiny Act which provides for the government of the army; and, according to this, any soldier shamefully deserting a post—such as walking away from the lamp-post at Storey's gate—or sleeping on the said post (he must be a deuced clever fellow to manage that)—or giving advice to a rebel (unless perhaps he advised a rebel to be off about his business)—or making signs to the enemy (though surely he might shake his fist at the foe)—would be liable to any punishment, from death downwards to a drill, or from the strong-room upwards to the scaffold.

There are, however, privileges belonging to the soldier, such as the right of making a will when on actual service, by merely saying how he wishes to dispose of his property; so that, in the field of battle, if a soldier sees a cannon-ball coming towards his head, he has only to say, "I give and bequeath all I have to so and so;" and if any of his comrades should have heard what he said, and live to repeat it, and remember exactly what it was, there is no doubt that the will would be a very good will in its way, and certainly quite strong enough to convey as much property as would probably be left by

> "The soldier who lives on his pay,
> And spends half-a-crown out of sixpence a day."

The Maritime State is the next topic we have to touch upon; and when we think of the glory of the Navy, the valour of the British tar, the hearts of oak, and all the rest of it, our timbers naturally begin to shiver, and we involuntarily go through a sort of mental Naval hornpipe as a tribute to the maritime prowess of Britannia, who has ruled the waves, the whole waves, and nothing but the waves, from time immemorial.

The mode of manning the Navy is, in time of war, to resort to the liberty of the press, or, in other words, to seize hold of any one who comes in the way, and make "a heart of oak" of him, whether his heart may be disposed to sympathize with wainscoating or not, and to turn him at once into a British tar, by pitching him on board a vessel. Some doubt has been thrown on the legality of impressment, but Sir Michael Forster, who is a regular special pleader, makes out that it must be a law, because it is mentioned in other

laws, though there is no law in existence to which the other laws refer; and consequently, as A is to B, so is B to C, which makes it as clear as A B C that A may B (e) pressed to go to C whenever there is any occasion for his services. Thus the power of impressment resides somewhere; but where that somewhere is, nobody knows; and, as we are fortunately at peace, nobody thinks it worth while to inquire. It has recently been enacted that no seaman shall serve more than three years against his will, unless he is made to serve longer, and then he must; so this boon to impressed seamen helps them out of their difficulty much in the same way as the Irishman lengthened his ladder, by cutting a bit from the bottom and joining it on at the top.

The privileges of soldiers and seamen are great; for, if the soldier loses his arms in battle, there is Chelsea Hospital to lend him a hand; and a sailor who is deprived of both his legs by a cannon-ball, has nothing to do but quietly to walk into Greenwich.

CHAPTER XIV.

OF MASTER AND SERVANT.

Having commented on the people in their public relations, we now come to private relations, including Master and Servant, Husband and Wife,—which, by-the-bye, is a relation something like that of master and servant, for the wife is often a slave to the husband,—Parent and Child, and Guardian and Ward—the latter being a sort of relationship which is seen upon the stage, where a choleric old man with a stick is always thwarting the affections of a young lady in white muslin.

We shall begin with Master and Servant—showing how such relationship is created and destroyed. There is now no such thing as pure and proper slavery in England; so that a servant of all-work who says, "Hang that door-bell, —I am a perfect slave to it," has recourse to a fiction.

England is so repugnant to slavery, that directly a negro sets his foot on English ground he is free; but if he has lost

both his legs, he cannot of course put his foot on British soil, and would remain a slave to circumstances. A menial servant is so called from the word *mœnia*, which signifies walls, and arises probably from the practice of brushing down cobwebs from the *mœnia*, or walls, with a Turk's-head, or hair-broom. The old doctrine of a month's wages or a month's warning is always acted on in London, except when a servant refuses to obey his master's orders, when it seems a master may give the servant kicks—and kick him out—instead of halfpence.

Another species of servants are called Apprentices, from the word *apprendre*, to learn; and thus a barber's apprentice learns to shave on the faces of poor people, who, in consideration of their paying nothing, allow themselves to be practised on by beginners who have never handled the razor.

Next come the labourers, whose wages were formerly settled by justices of the peace at session, or the sheriff; but now the master settles the wages, or, if he does not settle, he is a very shabby fellow for failing in doing so.

Stewards, Porters, and Bailiffs come next; but no one would think of having a bailiff as his servant, unless there were an execution in the house, and the bailiff were thrust into livery to save appearances.

A master may correct his apprentice for negligence; and if a grocer's apprentice neglects to sand the sugar, the master may give him the cane for neglecting his business.

A master may maintain or assist his servant in an action at law; and if one's footman happens to be a rightful heir in disguise, the master may lend him the money to go to law against the wrongful heir, for the purpose of recovering the property.

A master may assault a man for assaulting his servant, on the principle, probably, that in a row, as in every thing else, the more the merrier.

"If any person do hire my servant," says F. N. B. 167, 168—but whether F. N. B. is a policeman or what, it is impossible to say, for we only find him alluded to in the books as F. N. B. 167, 168—"if any person do hire my servant," says he, "I may have an action for damages against both the new master and the servant, or either of

them." This glorious old privilege is rather obsolete, for we do not find the courts much occupied in trying actions between ladies and gentlemen and their late menials.

The master is amenable, to a certain extent, for the act of his servant: and, therefore, if a servant commit a trespass by order of his master—such as if a gentleman riding by a field were to order his groom to jump over into it and pull up a turnip—the master, though he did not eat the whole of the turnip, or any of it, would be liable for the trespass. If an innkeeper's servant rob a guest, the innkeeper is liable on the principle of like master like man; for the law very reasonably thinks that, if the servant is a thief, the master very likely may be.

If I usually pay my tradesman ready money, I am not liable if he trusts my servant; but if I do not usually pay him any money at all, then I am liable to pay the money—when he can get it out of me. This is on the authority of Noy's Maxims—and a maxim is always supposed to contain the maximum of wisdom.

By an old statute, called "An Act for the better and more careful use of the Frying-pan," it is provided that any servant who sets the house on fire by carelessness shall forfeit 100*l.*, or go to the workhouse, where they would forfeit so many pounds of flesh by the spareness of the diet; but this Act, savouring too much of the spirit of Shylock, is now seldom acted on. A master is liable if any thing is thrown from the window of a house; but it has been decided that if a house should be on fire, and a servant should throw himself on the indulgence of the public, by jumping amongst the crowd and should hurt any one, the master would not be liable, for this would not be wilful damage.

If a pea-shooter be discharged from the garret, and the pea enter the eye of a passenger, the *pater-familias*, or master of the house, is, in the eye of the law, answerable for the pea in the eye of the stranger; for it is a common-law right, inherent in every one, to protect his own pupil.

Such are the leading features of the law of master and servant. The modern tiger has not been regarded by the ancient Constitution; but we find in * Petersdorff's abridg-

* Vide MS. marginal note, in pencil, in the author's own copy of this able work.

ment a quaint allusion to the legs of footmen, some of whom, he says, appear to be regularly calved out for the prominent situations they occupy.

CHAPTER XV.

OF HUSBAND AND WIFE.

We now come to treat of husband and wife, and shall inquire, first, how marriages may be made, which will be interesting to lovers; secondly, how marriages may be dissolved, which will be interesting to unhappy couples; and lastly, what are the legal effects of marriage, which will be interesting to those who have extravagant wives, for whose debts the husbands are liable.

To make a marriage three things are required;—first, that the parties *will* marry; secondly that they *can;* and thirdly, that they *do;* though to us it seems that if they *do*, it matters little whether they *will*, and that if they *will*, it is of little consequence whether they *can;* for if they *do*, they *do;* and if they *will*, they *must;* because where there is a *will* there is a *way*, and therefore they *can* if they *choose;* and if they *don't*, it is because they *won't*, which brings us to the conclusion, that if they *do*, it is absurd to speculate upon whether they *will* or *can* marry.

It has been laid down very clearly in all the books, that in general all persons are able to marry, unless they are unable, and the fine old constitutional maxim, that "a man may not marry his grandmother," ought to be written in letters of gold over every domestic hearth in the British dominions. There are some legal disabilities to a marriage, such as the slight impediment of being married already; and one or two other obstacles, which are too well known to require dwelling on.

If a father's heart should happen to be particularly flinty, a child under age has no remedy, but a stony guardian may be macadamized by the Court of Chancery; that is to say, a marriage to which he objects may be ordered to take place in spite of him. Another incapacity is want of reason in

either of the parties; but if want of reason really prevented a marriage from taking place, there would be an end to half the matches that are entered into.

A considerable deal of the sentiment attaching to a love affair has been smashed by the 6th and 7th of William IV., c. 85, explained by the 1st of Victoria, c. 22,—for one act is always unintelligible until another act is passed to say what is the former's meaning. This statute enables a pair of ardent lovers to rush to the office of the superintendent registrar, instead of to Gretna Green; and there is no doubt that if Romeo could have availed himself of the wholesome section in the act alluded to, Juliet need not have paid a premature visit to the "tomb of all the Capulets."

Marriages could formerly only be dissolved by death or divorce; but the New Poor Law puts an end to the union between man and wife directly they enter into a parochial Union. Divorce, except in the instance just alluded to, is a luxury confined only to those who can afford to pay for it; and a husband is compelled to allow money—called alimoney—to the wife he seeks to be divorced from. Marriages, it is said, are made in Heaven, but unless the office of the registrar be a little paradise, we don't see how a marriage made before that functionary can come under the category alluded to.

A husband and wife are one in law—though there is often any thing but unity in other matters. A man cannot enter into a legal agreement with his wife, but they often enter into disagreements which are thoroughly mutual. If the wife be in debt before marriage, the husband, in making love to the lady, has been actually courting the cognovits she may have entered into; and if the wife is under an obligation for which she might be legally attached, the husband finds himself the victim of an unfortunate attachment. A wife cannot be sued without the husband, unless he is dead in law; and law is really enough to be the death of any one. A husband or a wife cannot be witness for or against one another, though a wife sometimes gives evidence of the bad taste of the husband in selecting her.

A wife cannot execute a deed; which is, perhaps, the reason why Shakspeare, who was a first-rate lawyer, made Macbeth do the deed, which Lady Macbeth would have

done so much better, had not a deed done by a woman been void to all intents and purposes.

By the old law, a husband might give his wife moderate correction; but it is declared in black and white that he may not beat her black and blue, though the civil law allowed any man, on whom a woman had bestowed her hand, to bestow his fists upon her at his own discretion. The common people, who are much attached to the common law, still exert the privilege of beating their wives; and a woman, in the lower ranks of life, if she falls in love with a man, is liable, after marriage, to be a good deal struck by him.

Such are the chief legal effects of marriage, from which it is evident, says Brown, that the law regards the fair sex with peculiar favour; but Smith maintains that such politeness on the part of the law, is like amiability from a hyena—an animal that smiles benignantly on those whom it means mischief to.

CHAPTER XVI.

OF PARENT AND CHILD.

We now come to the tender subject of parent and child, which Shakspeare has so tenderly touched upon in many of his tragedies. Macduff calls his children "chickens," probably because he "broods" over the loss of them; and Werner, in Lord Byron's beautiful play of that name, exclaims to Gabor, "Are you a father?" a question which, as the Hungarian was a single man, he could not have answered in the affirmative without rendering himself amenable to the very stringent provisions of the 45th of Elizabeth.

Children are of two sorts—boys and girls; though the lawyers still further divide them into legitimate and illegitimate.

The duties of a parent are maintenance and education; or, as Coke would have expressed it, grub and grammar. That the father has a right to maintain his child is as old as Montesquieu—we mean, of course, the rule, not the child

or the parent, is as old as Montesquieu—whose exact age, by the bye, we have no means of knowing.

Fortunately, the law of nature chimes in with the law of the land; for, though there is a game, called "None of my child," in which it is customary to knock an infant about from one side of the room to the other, still there is that natural στοργη in the parental breast that fathers and mothers are for the most part willing to provide for their offspring.

The civil law will not allow a parent to disinherit his child without a reason; of which reasons there are fourteen, though there is one reason, namely, having nothing to leave, which causes a great many heirs to be amputated, or cut off, even without the ceremony of performing the operation, with a shilling. Our own law is more civil to parents than the civil law, for in this country children are left to Fate and the Quarter Sessions, which will compel a father, mother, grandfather, or grandmother, to provide for a child, if of sufficient ability. If a parent runs away, that is to say, doth spring off from his offspring, the churchwardens and overseers may seize his goods and chattels, and dispose of them for the maintenance of his family; so that, if a man lodging in a garret leaves nothing behind him, *that* must be seized for the benefit of the deserted children. By the late Poor Law Act, a husband is liable to maintain the children of his wife, whether legitimate or illegitimate; and we would therefore advise all "persons about to marry," that though it is imprudent to count one's chickens before they are hatched, still it is desirable that chickens already hatched, and not counted on, should be rigidly guarded against.

It being the policy of our laws to promote industry, no father is bound to contribute to a child's support more than twenty shillings a month, which keeps the child continually sharp set, and is likely to promote the active growth of the infantine appetite.

Our law does not prevent a father from disinheriting his child; a circumstance which has been invaluable to our dramatists, who have been able to draw a series of delightful stage old men, who have a strong hold on the filial obedience of the walking ladies and gentlemen, who dare not rush into each other's arms, for fear of the old gentleman in a court coat and large shoe-buckles being unfavourable to

the youth in ducks, or the maiden in muslin. Heirs are especial favourites of our courts of justice—much as the lamb is the especial favourite of the wolf—for an heir with mint sauce, that is to say, lots of money, is a dainty dish, indeed, to tempt the legal appetite.

A parent may protect his child; and thus if one boy batters another boy, the parent of the second boy may batter the first boy, and the battery is justifiable, for such battery is in the eye of the law only the working of parental affection; though it is rather awkward for parental affection to take a pugilistic turn in its extraordinary zeal to show itself.

The last duty of a parent is to educate a child, or to initiate him into the mysteries of Mavor at an early period. Learning is said to be better than houses and land—probably because it opens a wide field for the imagination—that Cubitt of the mind—to build upon.

The old Romans, says Hale, used to be able to kill their children; but he adds that "the practysse off cuttinge offe one's own hair was thougghte barber-ous." This atrocious pun reminds us of the cruelty of a certain dramatist of modern times, who used to write pieces and take his own children to see them, thereby submitting his own offspring to the most painful ordeal, for they were compelled to sit out the whole performance, and were savagely pinched if they fell asleep, while they were, at the same time, expected to laugh and look cheerful at every attempt at a joke which their unnatural father had ventured to perpetrate. In conformity with the maxim that "*paterna potestas in pietate debet non in atrocitate consistere*," it is believed that a child in such a dreadful position as that which we have alluded to, might claim to be released by his next friend, for the time being, the box-keeper.

A parent may correct his child with a rod or a cane—a practice originally introduced to encourage the growers of birch, and to protect the importers of bamboo, as well as to promote the healthy tingling of the juvenile veins; and a schoolmaster, who is *in loco parentis*, is also empowered to do the like by an old Act of Parliament, known as the statute of Wapping.

Children owe their parents support; but this is a mutual obligation, for they must support each other—though we

sometimes hear them declaring each other wholly unsupportable.

Illegitimate children are such as are born before wedlock; being, like Richard the Third, "sent before their time into this breathing world:" and though there is a fine maxim, to the effect of its being "better late than never," it is, in some cases, better to be late than too early. They are said to be *nullius filii*, or nobody's children; but so many people are now the children of mere nobodies, that all the old prejudices on this point against innocent parties are becoming quite obsolete, as they ought to be.

There is now no distinction between the two kinds we have named, except that one cannot inherit, and the other can; but some of those who can can't, and some of those who can't are enabled to do what is far better—namely, to give instead of taking.

CHAPTER XVII.

OF GUARDIAN AND WARD.

A GUARDIAN is a sort of temporary parent to a minor,—a kind of tarpaulin thrown over the orphan to shield him from the storms of life during his infancy—or, if we may use an humbler illustration, a guardian is a kind of umbrella, put up by the law over the ward, to keep off the pelting of the pitiless storm till the years of discretion are arrived at. There are various kinds of guardians, such as guardians by nature, and guardians for nurture, who are of course the parents of the child; for if an estate be left to an infant, the father is guardian, and must account for the profits; but as the father can control the child's arithmetical studies, it is easy for the latter to be brought up in blessed ignorance of accounts, and thus the parent may easily mystify the child when the profits of the estate are to be accounted for. The mother is the guardian for nurture; that is to say, she is expected to nurse the infant, and the law being very fond of children requires the mother to look to the infantine wardrobe. It also invests her with absolute power over the lk and water, and the bread and butter, making her a

competent authority—from which there is no appeal—on all points of nursery practice.

Next comes the guardian in *socage*—so called, perhaps, from the quaint notion that guardianship generally extends to those who wear socs—or socks—which is further borne out by the fact that guardianship in socage ceases when the child is fourteen years old—which is about the age when socks are relinquished in favour of stockings. These guardians in socage are such as cannot inherit an estate to which a child is entitled, for Coke says that to commit the custody of an infant to him who is next in succession, is "*quasi agnum committere lupo*," to hand over the lamb to the wolf, and thus says Fortescue, in one of those rascally puns for which the old jurists were infamous, "the law, wishing the child to escape from the *lupo* has left a *loop-hole* to enable him to do so." Selden has cleared this pun of a good deal of its ambiguity by changing the word *lupo* into *loop-ho*, but Chitty and all the later writers are utterly silent regarding it.

By the 12th of Charles II., confirmed by 1st Victoria, any father may appoint, by will, a guardian to his child till the latter is twenty-one; but it is twenty to one whether such a guardian—called a testamentary guardian—will be able to exercise proper control over the infant.

Guardians in chivalry have been abolished, and so have the guardians of the night, who, on the *lucus a non lucendo* principle, were called watchmen, from the fact of their never watching.

The Lord Chancellor is the general guardian of all infants, and especially of idiots and lunatics, for as Chancery drives people mad, it is only right that Chancery should take care of those who are afflicted with insanity, and who may be called the natural offspring of equity.

Having disposed of the guardians, let us come to the wards, or, as Coke would say, "having got rid of the wolf, let us discuss the lamb in an amicable spirit." A male at twelve years of age may take the oath of allegiance; but this does not apply to all males, for the Hounslow mail*

* The learning on the subject of the Hounslow Mail is fast becoming obsolete, a regular mail-cart having been recently substituted for the cab that previously carried it.

can take nothing but two insides and the letters. At fourteen a boy may marry if he can find any one fool enough to have him; and at twenty-one he may dispose of his property, so that he may throw himself away seven years sooner than he can throw away his money. By the law of England a girl may be given in marriage at seven, but surely this must mean the hour of the day at which she may be married, and not the age at which the ceremony may be performed. Formerly, children might make their wills at fourteen, but as they could not be expected to have a will of their own, it has been enacted that no will made by a person under twenty-one shall be valid. Among the Greeks and Romans, women were never of age, and if they had their way in this country a good many of them never would be. This law must have been the civil law, for its consideration towards the fair sex on a matter of so much delicacy as a question of age betokens extreme civility. When this wore away, the Roman law was so civil as to regard them as infants till they were five-and-twenty—which was meeting the ladies half-way by treating them as little innocents for the first quarter of a century of their precious existences.

Infants have various privileges, such as the common law privilege of jumping over the posts at the corners of the streets, and playing at hop-scotch or rounders in retired neighbourhoods. Another infantine privilege is the juvenile amusement of going to law, which a child may do by his guardian or his *prochein amy*, or next friend—though, by the bye, he must be a pretty friend who would help another into a law-suit. A child may certainly be hanged at fourteen, and certainly may not be hanged at seven, but the intermediate period is one of doubt whether the infant culprit is hangable. Hale gives two instances of juvenile executions in which two infant prodigies were the principal characters. One was a girl of thirteen, who was burned for killing her mistress; and the other a boy still younger, who, after murdering one of his companions by a severe hiding, proceeded to hide himself, and was declared in legal language, *doli capax*—up to snuff—or, to follow the Norman jurists, *en haut du tabac*, and hanged accordingly. It is a fine maxim of the English law, that an

infant shall not lose by *laches*, or, in other words, that the stern old doctrine of *no askee no havee* does not apply to a child who is entitled to something which he neglects asking for.

An infant cannot bind himself, but he may be "stitched in a neat wrapper"—that is to say, a Tweedish wrapper—at his own cost, if he thinks proper to go and pay ready money for it. An infant cannot convey away his own estate, but he may run through his own property as fast as he likes, for if he has a field he may run across it—in at one end and out at the other—whenever he feels disposed for it. An infant trustee may convey an estate that he holds in trust for another person, though he may not be a party in a conveyance on his own account, yet he may, nevertheless, join a party in a public conveyance, such as an omnibus. An infant may present a clerk to the bishop, but if the bishop don't like the clerk, he may turn upon his heel; but still the presentation does not fall by lapse into the laps of the bishop. An infant may bind himself for necessaries, such as food and physic; thus, if he gives a draft to pay for a pill, or contracts with a butcher to supply what is requisite and meet, he will be clearly liable.

In weighing the disabilities and privileges of infants, we come to the conclusion, that, to every six of one there will be about half-a-dozen of the other.

CHAPTER XVIII.

OF CORPORATIONS.

In addition to natural persons, the law, in honourable emulation of Madame Tussaud, of wax-work notoriety, has constituted certain artificial persons. These are called bodies politic, bodies corporate, or corporations, and they stick together like wax, in which respect they bear a still closer resemblance to the artificial persons in Madame Tussaud's collection.

Corporations are either aggregate or sole. When aggregate they consist of many, such as the mayor and common

councilmen of a city—and precious common councilmen some of them are; the head and fellows of a college—nice fellows some of *them* are also; and the dean and chapter of a cathedral church, which endures, of course, until the end of the chapter. Corporations sole consist of one person and his successors, such as a king, or a bishop, or a parson. This is the origin of the doctrine that the king never dies; for it is always, as the boys say, "One down and another come on," so that in fact the throne, like the curds and whey house at Hyde Park Corner, is never vacant. "The parson," says Coke, "*quatenus* parson shall never die," and the same may be said of the street-keeper, who, *quatenus* street-keeper, enjoys official immortality. The glorious old constitutional watchword of "never say die," probably has its origin in the circumstance hinted at.

Another division of corporations is into ecclesiastical and lay; the former being spiritual, such as bishops and parsons in the present day, and formerly monks, abbots, or priors; but it is doubtful whether the priors were prior to the monks. Lay corporations are such as the society of antiquaries, for the study of antiquities; and of course the members are expected to be well up in all the old jokes, which are better known as the "ryghte merrie mysteries of Miller." There are also eleemosynary corporations, such as hospitals, where legs are amputated *gratis*, from those poor persons who would otherwise be thrown upon their own hands for surgical attendance.

Having described the various kinds of corporations, we shall now ask:—first, how they are made; secondly, what they can do; thirdly, how they are visited; and fourthly, how they may be dissolved or got rid of.

A corporation is made by the sovereign, who uses the words "*Creamus, erigimus, fundamus, incorporamus,*" and the sovereign is guilty of the grossest tautology in doing so. A corporation must have a name, and Romeo, therefore, when he asks "What's in a name?" betrays a frightful ignorance of the beautiful passage in *Gib. Hist. C. P.* 182, where it is prettily laid down that the name is the knot by which a corporation is combined, and without the knot it is not a corporation at all—"a point," says Coke, "that is by the mass a knotty one."

We come, secondly, to the rights and powers of a corporation; the first of which is the right of perpetual succession; for as every man has a right to live till he dies, so every corporation has a right to exist till its existence ceases. This; indeed, is said to be the very end for which corporations were established; that is to say, their very endlessness is the end they are designed to answer. Thirdly, they may sue, or be sued; quod or be quodded; grant or receive, give or take, borrow or lend; and, in fact, do as they please with their own just like other people. A corporation may have a common seal, by which it is bound; for though the members may pass their words, it matters not what they say till the corporation sealing-wax renders it incumbent on them to stick to it. A corporation may make by-laws; but these by-laws, by the bye, may have the go-by given to them if they are contrary to the law of the land—a rule which is as old as the twelve tables of Rome; but we forget the date of those dozen specimens of classic mahogany. We have, however, done wisely in taking a leaf out of the tables alluded to.

A corporation has some disabilities, and is incapable, for instance, of being committed to prison, for there can be no catchee where there is actually no havee. A corporation is prevented from purchasing lands without a license from the sovereign, by certain acts called the statutes of *Mortmain*, which means a dead hand, probably from the fact that these corporations were dead hands at making a bargain.

Our next inquiry is, "How may these corporations be visited?" a question that would seem to need a reference to the book of *étiquette*, for when we talk of a corporation being visited, we allude, of course, to its liability to be called upon. The sovereign is the visitor of the archbishop; and we presume that the bell at Lambeth palace, with the brass plate beneath it, inscribed with the word "Visitors," is for the exclusive use of royalty. Lay corporations are said to have no visitors, and the present lord mayor of London (Magnay) appears to value this exemption, for he never asks any one to dine with him.

An eleemosynary corporation may be visited by the founder and his heirs, so that any genuine guy may leave his card as a visitor at Guy's Hospital.

We will consider, lastly, how corporations may be dissolved, for even the goodly pearl is capable of dissolution in the gem-destroying vinegar. A corporation may be dissolved by civil death, but no uncivil death—such as murder—can put an end to it. It may be extinguished by act of Parliament, or, in other words, by the law, which is, as it were, dissolving a corporation in hot water; by surrender, which is a sort of suicidal exit, when the corporation asks itself the question, "to be or not to be?" and prefers the latter; or, thirdly, by forfeiture of its charter through negligence or abuse, which formed a pretext in the reigns of Charles and James the Second for seizing the charter of the city of London. This led to an act being passed after the Revolution, enacting that the franchises of London shall never more be forfeited for any cause whatsoever, and thus the Lord Mayor and corporation have a *carte blanche* for any amount of foolery, a privilege that they one and all, in turn, take unlimited advantage of.

In the foregoing chapters we have given an account of the rights of persons, which are equally the privilege of the peer and the pot-boy, the gallant soldier, the sailor, the tinker, the tailor, the plough-boy, the apothecary, and the thief. May the pride of the first never disdain the humble merit of the second; and may the valour of the third and fourth, added to the industry of the fifth and sixth, ameliorate the condition of the seventh; while oh! may the healing art of the eighth restore, in a moral sense, the degraded ninth to that position which, in accordance with the rights of persons, any person has a right to occupy.

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